PATRICK J. TIBERI
12TH DISTRICT, OHIO

MEMBER:
COMMITTEE ON EDUCATION AND THE WORKFORCE
COMMITTEE ON FINANCIAL SERVICES
COMMITTEE ON GOVERNMENT REFORM
ASSISTANT WHIP

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DISTRICT OFFICE
2700 EAST DUBLIN-GRANVILLE ROAD
SUITE 525
COLUMBUS, OH 43231
(614) 523-2555

Congress of the United States
House of Representatives
Washington, DC 20515-3512

March 21, 2005

The Hon. Stephen Johnson
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Johnson:

I am writing to express my concern about the U.S. Environmental Protection Agency's "Revised Comparative Ecological Risk Assessment" (RCA) for rodenticides. I am told by constituents in the pest control industry that this document is fundamentally flawed and fails to account for the benefits associated with the use of these products, as required by federal pesticide law.

Rodenticides play an important role in combating rodents as disease carriers, sources of injury and infection, and as a threat to agriculture (through consuming and/or contaminating crops and other agricultural products). For example, rodenticides help prevent outbreaks of rodent-borne diseases such as rat bite fever, hantatvirus, lymphocytic choriomeningitis and leptospirosis.

Rodents can also carry ectoparasites such as fleas, ticks and mites, which transmit plague, Lyme disease, typhus and spotted fever. Moreover, a study by Johns Hopkins University researchers that was published in the February, 2005 *Journal of Allergy and Clinical Immunology* concluded that airborne levels of mouse allergens are a major cause of asthma among inner city children. The study states, "Interventions aimed at reducing airborne mouse allergens should focus on rodent extermination..." Rodenticides are an essential part of integrated pest management (IPM) programs in public buildings and are vitally important tools in safeguarding public health.

My constituents expressed further concerns that the RCA relies upon scientifically unsupported analyses. In fact, they tell me that EPA's own Scientific Advisory Panel criticized the approach the agency used to assess the risk posed by rodenticides. They also believe the RCA takes a distorted view of "exposure." The document does not account for the levels, if any, at which birds and non-target mammals actually are exposed to rodenticides. Much of the incident data for birds and non-target mammals involves cases where a trace or minute amount of rodenticides was detected.

Nevertheless, the agency automatically assumed that the rodenticides caused death, regardless of whether the animal was actually killed by other wildlife or run over by a car.

Finally, my constituents are disturbed that the RCA relies heavily upon an outdated U.S. Fish and Wildlife Service (USFWS) Biological Opinion that recommended rodenticide use restrictions. Members of Congress heavily criticized this document and it has been largely disregarded in the 12 years since it was issued. Congress was so concerned with the unworkability of USFWS's recommendations that it included language in the report accompanying the Food Quality Protection Act of 1996 warning U.S. EPA not to take "unwarranted actions that...could result in the unchecked spread of...rodent-borne diseases that could pose serious threats to consumers and food safety."

Using the RCA to justify the imposition of use restrictions or other "mitigation measures" upon rodenticides would appear not to be in the best interest of public health and safety. I urge EPA not to base any regulatory actions on the RCA given the shortcomings outlined above.

Your attention to this matter is greatly appreciated, and I look forward to your reply.

Sincerely,

Pat

Patrick J. Tiberi
Representative to Congress

PJT/bc

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 15 2005

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

The Honorable Patrick J. Tiberi
U. S. House of Representatives
Washington, DC 21515

Dear Congressman Tiberi:

Thank you for your letter of March 21, 2005, to Stephen Johnson, Acting Administrator of the Environmental Protection Agency (EPA), regarding your concerns about how EPA may use the Revised Comparative Risk Assessment (CRA), titled "Potential Risks of Nine Rodenticides to Birds and Nontarget Mammals: A Comparative Approach," as part of future regulatory actions related to the use of rodenticides.

EPA recognizes the critical role that rodenticides play in combating rodents as disease vectors. The Agency has been working aggressively to thoroughly understand the hazards, the potential exposure pathways, and any resulting human health and environmental risks posed by rodenticides, and to weigh those risks against the important public health benefits associated with rodenticide use. Several of the concerns you expressed have also been raised by the National Pest Management Association (NPMA). EPA is concerned that information provided on this issue by NPMA is extremely outdated and does not reflect the significant work and public engagement that provided the basis for the current CRA, which was formally peer reviewed by an academic reviewer, an international researcher, and a reviewer from another federal agency.

The Agency is in the process of reviewing public comments received on that peer-reviewed risk assessment and will continue its ongoing dialogue with other government agencies, including the Centers for Disease Control and Prevention and all interested stakeholders, on evaluating the risks and benefits of rodenticide use as we make any appropriate risk mitigation decisions.

We have attached a rodenticide fact sheet highlighting the Agency's process in reassessing the rodenticides. We will begin the risk mitigation development process later this year and hope that all interested stakeholders will choose to work with the Agency and with each other during this process.

Again, thank you for your letter. If you have further questions or concerns, please contact me, or your staff may contact Betsy Henry in the Office of Congressional and Intergovernmental Relations at (202) 564-7222.

Sincerely yours,

Susan B. Hazen
Principal Deputy Assistant Administrator

Enclosure

EPA Process for Reassessing Ecological Risks from Rodenticides: Response to the National Pest Management Association Letter and Document on Ecological Issues

Background Information

EPA has been working aggressively to advance the science in understanding the potential environmental risks posed by rodenticides, and to weigh any risks against the important public health and other benefits associated with rodenticide use. As part of its ongoing work to reassess the safety of older pesticides, EPA issued a Reregistration Eligibility Decision (RED) in 1998 for the Rodenticide Cluster. In that document, EPA noted concern about potential adverse effects to birds and non-target mammals, and announced a plan to further evaluate those potential risks before issuing final decisions about reregistration eligibility. In a public meeting in October 1999, EPA announced that it would employ a comparative approach for further evaluating potential ecological risks posed by rodenticides, and committed to use a public participation process to ensure broad stakeholder input on the assessment and any resulting risk mitigation options. Consistent with this approach, the Agency has prepared a Revised Comparative Risk Assessment (CRA) titled "Potential Risks of Nine Rodenticides to Birds and Non-target Mammals: a Comparative Approach." The current CRA compares and ranks nine rodenticide active ingredients in terms of potential severity of risk and concludes that, under certain circumstances, there is adverse risk to non-target organisms from all rodenticides, but that some compounds present more risk than others.

Due to the public interest in rodenticides, the Agency elected to employ the full six-phase public participation process for the CRA. The risk assessment was published in January 2003, and public comments were accepted for 120-days. After the comment period closed, the Agency reviewed all comments received, and made revisions to the risk assessment as appropriate. On September 22, 2004, EPA published the revised risk assessment and several supporting documents, including an "Analysis of Rodenticide Bait Use," which discusses the benefits associated with the rodenticides. The Agency is currently reviewing public comments on the revised risk assessment and the use analysis document. The Agency will continue its ongoing dialogue with other government agencies and stakeholders to develop its risk mitigation decision.

Questions and Answers

1. **Don't rodenticides play a significant role as public health pesticides and aren't they essential in integrated pest management programs in public buildings?**

EPA consults with the Centers for Disease Control (CDC) regarding the use of public health pesticides, including rodenticides. EPA's document titled "Analysis of Rodenticide Bait Use" discusses the potential human health impact of rodents as disease vectors and the benefits associated with rodenticides. The CDC reviewed and provided significant input on that document prior to its public release in September 2004. The Agency generally agrees that management of rodent pests is best achieved through a combination of methods adapted to the specific site conditions, which is an integrated pest management approach, and that rodenticide

baits and other lethal control approaches are an important part of an IPM program at sites with active rodent infestations.

2. The National Pest Management Association (NPMA) criticizes the methodology of the CRA. Hasn't the methodology been developed using sound science and been peer-reviewed?

The CRA is in accord with EPA's Guidelines for Ecological Risk Assessment. The methodology used is similar to that used in many Agency risk assessments and has been reviewed by a FIFRA Scientific Advisory Panel, a member appointed review panel based on recommendations from the National Institutes of Health and the National Science Foundation.

In regards to certain aspects of the Agency's risk assessment methodology, the Scientific Advisory Panel made a number of helpful suggestions to improve the utility of the methodology, most of which are included in the rodenticides risk assessment. In addition, an earlier version of the rodenticide risk assessment was also externally-peer reviewed by experts outside of the Agency.

3. National Pest Management Association criticizes the ability of the risk assessments to accurately assess "exposure." Does the risk assessment take into account the "exposure" of birds and non-target mammals?

Ecological risk assessment is a process that evaluates the likelihood that adverse ecological effects may occur or are occurring as a result of exposure. There currently are insufficient data to permit EPA to establish a quantitative measure of likelihood of exposure. Lack of data concerning typical use patterns is a major constraint for both the Agency and the registrants in preparing more quantitative risk assessments.

While members of the National Pest Management Association and United States Department of Agriculture (USDA) have offered to help collect the needed information, no data have been provided to date, nor is it apparent that any efforts to gather the information have been initiated. However, the existence of substantial incident data confirms that birds and nontarget mammals, including the endangered San Joaquin kit fox in California, are being exposed to rodenticides.

Numerous species of birds and mammals with rodenticide residues have been collected, which indicates that both primary and secondary exposures are occurring. A level of "unacceptable" risk has not yet been established, since such a determination requires consideration of benefits. Benefits and risks will be considered together during the risk management phase.

4. The National Pest Management Association criticizes the risk assessment for not including the benefits of rodenticides. Why does the risk assessment exclude benefits?

As stated previously, risk assessment is a process that evaluates the likelihood that adverse ecological effects may occur or are occurring as a result of exposure. Benefits should not be considered in such an assessment. Benefits of pesticide uses are determined in a separate analysis. The risks and benefits must be determined independently and then balanced for risk management and any mitigation decisions.

The Agency has noted in the "Note to Reader" published during EPA's public comment period (September 2004 - January 2005) that it recognizes that there are significant public health and other benefits associated with the use of rodenticide baits and will consider those benefits in reaching a risk management decision. EPA has also accepted comments on an "Analysis of Rodenticide Bait Use." That document presents an overview of the current use of nine rodenticide baits in the U.S. and includes: (1) the potential human health impact of rodents as disease vectors; (2) the damage caused by rodents to man-made structures and agriculture; (3) a description of available market information, main use sites, target pests, and efficacy issues for these rodenticide baits; (4) and alternative rodent control methods.

5. Does the Agency rely heavily as stated by NPMA on the U.S. Fish and Wildlife Service Biological Opinion?

The risk assessment does not rely on the U.S. Fish and Wildlife Service (USFWS) Biological Opinion (BO). EPA did solicit public comments (September 2004 - January 2005) on whether to implement the Biological Opinion, but the Agency received no comments supporting that approach. Other factors weighing against implementing the 1993 Biological Opinion are that the supporting science is old, additional species have been listed since the previous consultation, and the original consultation did not include one of the nine rodenticides evaluated in the risk assessment. Based on ongoing discussions with USFWS and the considerations discussed above, the Agency has decided against implementing the 1993 Biological Opinion. The Agency believes that it is necessary to reinitiate consultation with USFWS and plans to begin informal consultation later this year.

Congress of the United States

Washington, DC 20515

May 27, 2005

The Honorable Benjamin H. Grumbles
Assistant Administrator for Water Programs
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Assistant Administrator Grumbles:

We are writing to you to express our concern regarding the continued protection of the Ohio River as a regional drinking water source, as designated by states pursuant to the Clean Water Act and by the Ohio River Valley Sanitation Compact.

The City of Cincinnati draws approximately 43 billion gallons of water from the Ohio River each year to supply drinking water to approximately one million consumers in the greater Cincinnati area, including citizens in northern Kentucky.

The Commonwealth of Kentucky has granted a permit to discharge wastewater directly into the Ohio River from a new Eastern Regional Wastewater Treatment Plant ("ERWWTP") approximately 11 miles upstream from the City of Cincinnati's water intakes. The proposed ERWWTP discharge and Cincinnati intakes are both on the Kentucky side of the river and it is expected that the four million-gallons-per-day of treated wastewater discharge will tend to be more concentrated on the Kentucky side and will not completely disperse in the Ohio River as it travels the 11 miles from the discharge point to the Cincinnati drinking water intake. The potential discharge from the ERWWTP will be more than the combined discharges directly to the Ohio River of all upstream wastewater plants for 100 miles.

According to the City of Cincinnati, the ERWWTP's discharge will force the City to install additional disinfection and treatment methods (ultraviolet light and ultrafiltration) at a cost of up to $110 million to neutralize harmful pollutants, such as *Cryptosporidium* and *Giardia*. These safeguards would be necessary to ensure that Cincinnati complies with the *Safe Drinking Water Act*. The cost to Cincinnati and the potential threat to its water supply could be avoided entirely if Kentucky were to relocate its outflow to a point 11 miles downstream. The discharge, if moved, would be approximately 130 miles upstream of the next municipal water intake at Louisville, Kentucky.

The area of the Ohio River adjacent to the Cincinnati intakes, including the site of the proposed discharge, has been designated as a critical source water protection zone by a task force which includes EPA Regions III, IV, and V and the Ohio River Sanitation

Commission. The cost of relocating the proposed ERWWTP outflow point is estimated to be $40 million, which is far less than the cost to Cincinnati and surrounding jurisdictions which would be forced to spend millions on a long-term basis to protect the purity of their drinking water supply.

We request that you review the issued and pending ERWWTP permits, which as a point source are directly regulated by the EPA. We are informed that Kentucky did not consider the impact of pollutants such as *Cryptosporidium*, *Giardia*, and viruses on Cincinnati's water intake because, at least in part, Kentucky has taken the position that those pollutants are not regulated by the Clean Water Act. To the contrary, we believe that Kentucky's restrictive application of the Clean Water Act may fail to protect the important use of the Ohio River as a source of drinking water and does not give adequate consideration to protecting the health of water consumers.

It is our hope that the EPA will give thoughtful consideration to the increased costs the discharge permit would impose on the City of Cincinnati and the one million affected consumers living in southwest Ohio. We urge you to find a resolution which will allow the construction of the Eastern Regional Wastewater Treatment Plant, but more importantly will protect the drinking water supply for the Greater Cincinnati Area.

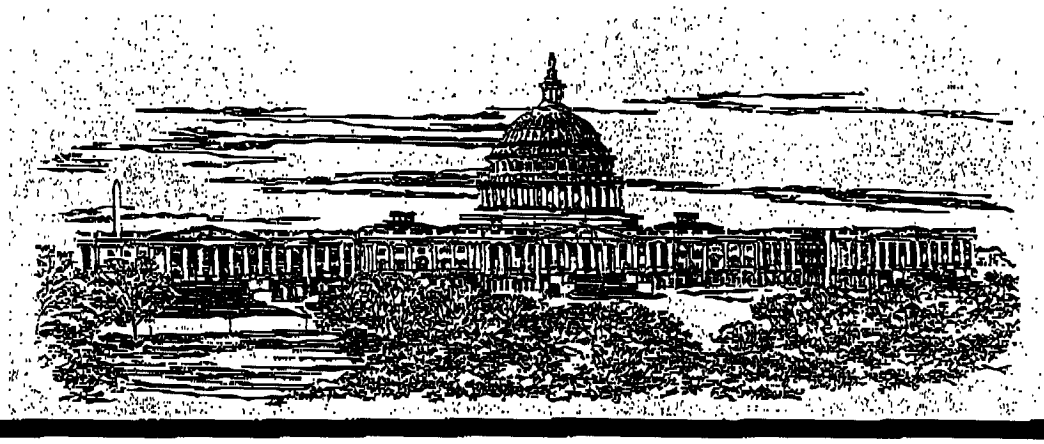
Sincerely,

Steve Chabot
Member of Congress

Patrick Tiberi
Member of Congress

Mike DeWine
United States Senator

George V. Voinovich
United States Senator



CONGRESSMAN STEVE CHABOT

129 Cannon House Office Building
Washington D.C.
PHONE: (202) 225-2216
FAX: (202) 225-3012

DATE: 5/27 **TOTAL PAGES:** 3 (w/cover)

TO: EPA Cong. Affairs

FAX:

FROM: Mike Sullen

NOTES:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW
ATLANTA, GEORGIA 30303-8909

JUL 2 1 2005

The Honorable Patrick Tiberi
United States House of Representatives
Washington, DC 20515

Dear Congressman Tiberi:

Thank you for your May 27, 2005, letter to Assistant Administrator Ben Grumbles on behalf of the City of Cincinnati concerning the proposed discharge of treated domestic wastewater from Sanitation District Number 1, Eastern Regional Wastewater Treatment Plant (ERWWTP), Alexandria, Kentucky, into the Ohio River and the potential impact on Cincinnati's intake of drinking water from the river.

The ERWWTP is a new plant proposed by Sanitation District Number 1 as part of a $70 million system-wide upgrade to replace three existing antiquated wastewater treatment plants that currently discharge into the Ohio River and its tributaries. The proposed upgrade to the ERWWTP facility will provide a much higher level of treatment efficiency and management of incoming flows which will be positive steps toward reducing current releases of untreated sanitary wastes into the Ohio River.

EPA Region 4 staff reviewed the draft permit for this facility and did not identify a basis, as set forth in 40 Code of Federal Regulations §123.44, for objecting to the permit. Accordingly, we notified the Kentucky Division of Water (KDOW) on October 20, 2003, that we had no comments to make on the permit as drafted. The Commonwealth of Kentucky issued a Kentucky Pollutant Discharge Elimination System permit to the ERWWTP on May 12, 2004.

Your letter expresses concern about the costs that the City of Cincinnati and its residents will bear in order to address the presence of *Cryptosporidium* and *Giardia* in surface waters resulting from the discharge of wastewater from this plant. While we understand your concerns, the regulations governing the Agency's review of proposed state permits provide for objections only on specified grounds, which do not include such considerations, where the permit meets the requirements of the Clean Water Act. In this case, our review concluded that the permit meets the requirements of the Clean Water Act, including the requirement that all applicable water quality standards be achieved.

Currently, neither Ohio nor Kentucky have adopted numeric water quality standards, nor has EPA adopted water quality criteria standards, that address *Cryptosporidium* and *Giardia* because, to date, no scientific methodology has been developed for determining acceptable levels of these organisms in surface waters. EPA is working on a Methodology for Deriving Microbial Water Quality Criteria for the Protection of Human Health. Once completed, this work will provide the scientific foundation for states to use in revising and adopting water quality standards that can be used as the basis for developing effluent limitations for discharges from municipal wastewater treatment plants. Additionally, EPA is planning to develop a drinking water source ambient water quality criterion for *Cryptosporidium* in the near future.

Although EPA was not in a position to object to the ERWWTP permit, in response to the City's concerns, we requested KDOW to include a specific requirement for the ERWWTP to notify downstream operators of drinking water intake structures of any leaks, spills, and/or bypasses from the new facility. The State of Ohio made this same request and KDOW issued the permit incorporating this requirement.

It is our understanding that the ERWWTP and KDOW are considering two possible alternative locations for the discharge: (1) at the current Alexandria WWTP discharge point to Brush Creek or (2) at a point downstream into Twelvemile Creek. The Brush Creek and Twelvemile Creek locations are approximately 16 and 14 miles from Cincinnati's intake, respectively. The permit for either discharge point would require significantly more stringent effluent limitations, when compared to the current permit for the ERWWTP discharge to the Ohio River.

We will continue to follow this permitting situation closely and will support efforts to seek a resolution that is mutually agreeable to all parties. If you have questions or need additional information, please contact me or the EPA Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,

J. I. Palmer, Jr.
Regional Administrator

cc: LuJuana Wilcher, Secretary, Kentucky Environmental
and Public Protection Cabinet
Lloyd Cress, Commissioner, Kentucky Department for
Environmental Protection

PATRICK J. TIBERI
12TH DISTRICT, OHIO

COMMITTEE ON EDUCATION AND THE WORKFORCE
CHAIRMAN
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SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS
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NEW ADDRESS:
3000 Corporate Exchange Drive
Suite 310
Columbus, OH 43231

October 5, 2005

Thomas V. Skinner, Regional Administrator
Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604-3590

Dear Mr. Skinner:

The attached communication concerns a request my constituent has forwarded to me which is under the jurisdiction of your office. In January 2001 my office was informed by Karla Auker, on-scene coordinator, US EPA, that the Akzo Nobel Coatings, Inc. would be responsible for the site cleanup and that the (b) (6) family would not be held responsible for the cost.

Please review the attached letter and (b) (6) case files to determine if US EPA has changed its position on the (b) (6) financial responsibility. Please forward me the necessary information for reply and address it to my district office as listed above.

If you have any questions, please contact Nancy Kolb in my district office at 614-523-2555. Thank you for your time and attention to this matter, and I will look forward to your reply.

Sincerely,

Patrick J. Tiberi
Representative to Congress

PJT/nlk

Enclosure

Tuesday, September 13, 2005

(b) (6)

Mark Bell
Office of Congressman Patrick Tiberi
3000 Corporate Exchange
Suite 310
Columbus, OH 43231

Dear Mr. Bell,

Thank you for meeting with (b) (6) and I last week to discuss my on-going problems with the Environmental Protection Agency (EPA). Prior to his death in 1990, my husband (b) (6) and subsequently, I have cooperated in everyway with the EPA; allowing free access to the property, permitting testing of ground water, truthfully answering all questions, supplying all requested documents.

In the 1971s, Hanna Chemical (AKZO's predecessor) asked (b) (6) to bury drums of used rags and other non-polluting trash on the property. At the time, this arrangement was legal and acceptable. For three months (b) hauled drums Hanna said held trash, no chemical, solvents or paints. In 1990, the EPA interviewed (b) about Hanna's drums at our home. After the interview, the EPA walked the property; looked at a ravine where drums were buried, deciding the site was a low priority. Again, in 2001 the EPA walked the property; looked in the ravine, identified other potential burial sites, deciding AKZO's drums should be removed. Although much is implied in the EPA's test results, press releases, and other paperwork, no surface or ground water pollution exceeding minimal Voluntary Limits was found.

On numerous occasions, the EPA representatives Carla Auker and Joe Malik gave verbal assurance the costs excavating, removing drums and returning the property to "as found" condition would be paid by others. Further the EPA representatives stated objective was to have all site clean-up costs assigned to and paid by AKZO. Even while making these promises, EPA's letters and forms threatened eventually, legal action. For example, the EPA's most recent request for copies of my tax returns threatens fines and a law suit.

To protect my home, few acres, and small savings, it became necessary to hire Attorney Roger Sugarman. By acting prudently, I have forestalled bankruptcy, although suffering grievous mental anguish. To date, AKZO sued in an attempt to be compensated for their perceived costs. Adjacent property owners frivolously sued for depriving them of the tranquil enjoyment of their property. In each case, the courts recognized I was innocent of any violation. Total cost of protecting my innocence for five years now exceeds $45,000.00. At this time, I fully expect to be in court against EPA in the future.

I know you were surprised by the request for a meeting in light of the promises made by the EPA to the Congressman's office four years ago. Your office had been assured AKZO's drums would be removed, the land returned to "as before", and all cost paid by AKZO. This is not the case, AKZO's drums are gone, the lanes and land bear the scars of excavation, and the EPA is threatening to sue. In its effort to entangle and ensnare a large, multi-national corporation, the EPA is pushing me into bankruptcy, as my savings are just about gone. At the least, my land should be graded and seeded and a small percentage of the millions recovered by the EPA from AKZO paid to Attorney Sugarman.

Thank you for looking into the matter further.

Sincerely,

(b) (6)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV 0 9 2005

The Honorable Patrick J. Tiberi
Member, U.S. House of Representatives
3000 Corporate Exchange Drive, Suite 310
Columbus, OH 43231

REPLY TO THE ATTENTION OF

Dear Congressman Tiberi:

Thank you for your letter dated October 5, 2005, concerning (b) (6) questions about the (b) Superfund Site and the United States Environmental Protection Agency's (U.S. EPA) cost recovery actions pursuant to U.S. EPA's authority and responsibility under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. §9601 et seq.

On May 1, 2000, the U.S. EPA, at the request of the Ohio Environmental Protection Agency (OEPA), conducted a site assessment to address potential paint waste contamination at (b) property located at (b) (the Site). The Site assessment revealed the presence of approximately 200 deteriorated drums in a ravine on the Site containing high levels of benzene, xylene, toluene, chromium, lead and zinc.

As part of the Site assessment, U.S. EPA officials interviewed (b) and her son regarding the nature and extent of the historical disposal of drums at the property. Based upon the information provided, in part by (b) , and the statements obtained by OEPA from (b) before his death, U.S. EPA negotiated an Administrative Order by Consent with Akzo Nobel Coatings, Inc. (Akzo) wherein Akzo agreed to conduct a removal of the estimated 200 drums and reimburse U.S. EPA for past response and oversight costs. Akzo may have been a successor corporation to Hanna Chemical Company which allegedly provided the 200 drums placed in the ravine.

Removal actions began at the Site on October 23, 2000, and the drums and waste materials were removed from the Site by September 16, 2002. However, the removal activity was far more extensive than that originally envisioned by Akzo and U.S. EPA. Instead of 200 drums, approximately 1300 drums were excavated from four different areas of the property, including an area within sight of the house. Approximately 11,000 tons of solid wastes and 72,000 gallons of waste liquid were removed and disposed of off-site. Contaminated soil was excavated and the areas were backfilled with clean fill. Akzo states that it spent $6,508,000 cleaning up the (b) (6) property, which it estimates as 95 times the amount contemplated by Akzo and U.S. EPA when the Administrative Order by Consent was negotiated. The Region billed Akzo for $1,557,090 in oversight costs and Akzo has disputed payment based upon its belief that it is not responsible for these costs.

U.S. EPA is charged with ensuring that hazardous waste sites are cleaned up, that money spent from the Superfund is restored, and that those responsible for contamination pay their appropriate share of clean up costs. Although (b) (6) did not pay for the clean up of the Site, U.S. EPA's policy is to seek reimbursement of its oversight costs from all viable potentially responsible parties. On July 1, 2005, U.S. EPA sent a demand letter to (b) (6) as the owner of the Site at the time the contamination was placed on Site, for repayment for the oversight costs incurred. The demand letter specifically recognized that many individuals have limited resources with which to pay for Superfund hazardous waste clean up costs. The demand letter advised (b) (6) that U.S. EPA may consider the impacts of any settlement on her so as not to create an undue financial hardship. U.S. EPA requested that (b) (6) provide financial information so that the Agency could make an assessment of what, if any, reimbursement could be made, without causing her undue financial hardship. The Region has not yet received the necessary information from (b) (6).

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Mary Canavan or Phil Hoffman, the Region 5 Congressional liaisons.

Very truly yours,

Thomas V. Skinner
Regional Administrator

PATRICK J. TIBERI
12TH DISTRICT, OHIO

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Congress of the United States
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FAX: (614) 818–0887

December 14, 2006

Ms. Mary A. Gade, Regional Administrator
Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604-3590

Dear Ms. Gade:

The attached communication concerns a request my constituent has forwarded to me which is under the jurisdiction of your office.

Please look into the statements contained within the attached documents and forward me the necessary information for reply. Please address your reply to my district office as listed above.

If you have any questions, please contact Nancy Shaver in my district office at 614-523-2555. Thank you for your time and attention to this matter, and I will look forward to your reply.

Sincerely,

Patrick J. Tiberi
Representative to Congress

PJT/ns

Enclosure

DEC 0 / 2006

12/4/2006

Congresswoman Deborah Pryce
500 S. Front Street Suite 1130
Columbus Ohio 43215

RE: Contaminated Property at (b) (6) [redacted]

Dear Congresswoman Pryce

I am writing to you again asking for your help and help from Congressman Pat Tiberi, Senator George Voinovich and Mike DeWine in getting my problem resolved with the State and U.S. EPA Region 5 regarding an underground storage tank release that has severely damaged my property in which BP refuses to complete the site assessment according to Federal Regulations guidelines, the State of Ohio and U.S. EPA Region 5 refuse to order BP to conduct the site assessment according to Federal regulation requirements knowing that there has been severe deficiencies in every phase of the site investigation that started in 1992 and still has not been completed according to Federal regulation requirements. Your letter in 1994 to the BUSTR Chief Andy Lyles in which you told him the no further action letter he had sent to BP was wrong because the site assessment had not been completed as required and that my family and I was entitled to compensation according to State and Federal regulations. Your letter from 1994 to Andy Lyle's and 1995 to the Ohio Department of Commerce Chief Council, Patricia Snyder was ignored, just as I have been ignored for over 14 years. No matter how much information I have sent to these people as well as my consultants, it is ignored, that is why I am asking for your help in protecting the people of the State of Ohio and the Environment, as well as getting compensation for damages.

I am sending copies of letters I sent to Gov. Robert Taft dated March 3rd, 1999 also letter dated 9 /6/ 2005 to Gov. Bob Taft I'm also sending a copy of the response letter from the Governors office dated December 19th, 2005 and also a response letter from the U.S. EPA inspector general's office in which I had asked for help on this matter, but you will see from the response letters and the letters to Gov. Bob Taft that I have been ignored on ever request I made to the Governors office, Attorney-General office, U.S. EPA Region 5, U.S. EPA, and the U.S. EPA inspector general's office. This is a very serious matter for the lives and health of millions of people around the State and neighboring States as well is being put at risk by the contamination that is being left on these sites around the State, our Government is aware that the contamination had been found in the soil and groundwater and clearly poses a risk to human health and the Environment, this should be corrected and every responsible person should be held accountable for their violations of Federal and State environmental and underground storage tank laws and regulations. BP is a habitual violator of our environmental and underground storage tank laws and regulations and our Government looks the other way and this is wrong. You said in your run for reelection that you would fight for the people because it was the right thing to do, you also said the truth should be known because it matters. I agree with those statements the people have a right to the protection these regulations provide for and the people should be made aware that the contamination that the oil companies are leaving on these sites is a known carcinogen and could be hazardous to their health, but this is not going to happen until the Governors office, the

Attorney-General office, the Ohio Department of Commerce and everyone else to do their job in protecting people of the State of Ohio, the Governor and all other elected representatives certainly should know what they were elected to do and what they're paid to do and as I see it that was not to protect the polluters, it was to protect the people and the Environment.

I feel the only way to get anything done is to get a federal investigation to see how many citations for violations was issued to the oil companies for any underground storage tank release in the State of Ohio? I have never found any oil company that has been penalized or has had any actions taken against them for violating underground storage tank regulations. There have been thousands of illegally closed sites where the State and Region 5 has never taken any action against the oil companies for these violations. Why? Are the City of Columbus, State of Ohio, Region 5, and the oil companies and their contractors exempt from complying with federal laws and regulations? These regulations are law and have to be obeyed by everyone, these regulations have to be enforced as they are written, the site investigation and cleanup work has to be done according to Federal regulation requirements and guidelines, but that is not happening in the State of Ohio, why? Because no one is making them follow the regulation guidelines our State federal and local government just looks the other way, this should be stopped immediately.

Another example of wrongdoing by the State is the investigation by Channel 10 who investigated weights and measures who were checking these gas stations for adding more water to their product than allowed, they found that the stations were adding more water than they were supposed to, up to 20 percent more, and the station that was adding the most water was BP, but weights and measures said they was not going to do any thing about it because they did not have the resources or manpower to check every station. This I feel is telling the oil companies to put as much water in their product as they want or shortchanged the public all they want because they did not have the resources or manpower to check every station. I thought these people were paid to enforce and to issue citations for violations? As I have been told this would be considered fraud because the gas stations are diluting their product but selling it at the same price as if it didn't have the additional water in it. If the oil companies were forced to take the water out of the gasoline vehicles would get better gas mileage and a lot less pollution would occur.

The letter dated February 22nd, 2005 from the United States Environmental protection agency Washington office is incorrect in most of their findings they ignored the facts that I sent them, they stated that the "State it is not required to have an approved or mandated U.S. T program to oversee the work of a responsible party" that is not true both Region 5 and the Ohio Department of Commerce both stated that BUSTR did not have the authority to enforce the Ohio revised code or the Ohio administrative code for U.S. Ts They also stated that you were wrong when you notified BUSTR that my family and I was entitled to compensation according to Federal and state U.S. T regulations. They also said because the tanks were removed before the Federal UST compensation program became effective my family and I were not entitled to compensation. That certainly is not true because standard Oil/BP was responsible for the contamination they left on the property including any hazardous material according to State and City requirements in 1980, their response letter does not include the facts that I sent the information to them that my consultants found that the contamination did violate city and state requirements. There again without elaborating I feel a federal investigation of the State of Ohio, City of Columbus, Region 5 and the U.S. EPA inspector general's office is necessary to get these people to do their job of

protecting the people and the Environment, much like the letter of response from the Governors office they ignore the fact and don't care whether the people are protected or not as long as BP is protected that is all they are concerned with.

The reason I contacted the U.S. EPA inspector general's office in 2003 was because they had filed charges of fraud against several laboratories who were giving false and misleading information of the test results from contaminated sites and waterways. I gave them information that showed the labs that BP was using made errors on every sampling of assessment work that was made on the property. There was severe areas of testing that was inaccurate and I suggested that the inspector general's office should investigate these labs, the information I sent showed errors were made repeatedly by these laboratories but nothing was done about the lab errors or false reports. That is why I am contacting you now because again the U.S. EPA inspector general's office had found that laboratory is still doing bad test that put our country's water safety at risk, this last charges against these labs was an article in The Columbus dispatch dated 10/ 03/06 it shows that one of the cases involves incompetent testing of water samples from a public utility that serves 1.8 million people 129 schools 12 hospitals 104 bottled water companies and at least three people have been convicted of issuing false lab results in the past two years. This goes to show that our watchdog of U.S. EPA inspector general's office is not doing their job of protecting the people and the Environment. They didn't do any thing to these labs in 2003 and I'm sure they won't do any thing to these labs in 2006, this is just a move to make the public feel that they are doing their job.

Allowing the oil companies to investigate their own contaminated sites is wrong. Allowing the oil companies to hire their own contractors to collect soil and water samples hire their own labs to analyze the samples is wrong, there is a serious conflict of interest and nobody in their right mind would expect to get any accurate results. For the repeated violations by BP and their contractors Hull and associates they should not be allowed to conduct any more site investigations or cleanup due to their repeated violations. These people ignore our laws and regulations because they know they are not going to receive any fines or any penalties by our Government.20 years of violations by BP and their contractors 20 years of no enforcement by the City of Columbus, State of Ohio, or U.S. EPA Region 5 tells the whole story and why an investigation is necessary to put a stop to the abuse of our environmental and underground storage tank regulations.

I would hope to get a response as soon as possible and I hope with your help and the help from Congressman Tiberi, and Senators Voinovich and DeWine we can bring this matter to a close and protect the people and the Environment in the process. If you would like any other formation or would like to go over this with me you can contact me at (b) (6)
(b) (6)

Sincerely yours

(b) (6)

Cc Congressman Tiberi Senator Voinovich and Dewine Gov. Bob Taft

BOB TAFT
GOVERNOR
STATE OF OHIO

December 19, 2005

(b) (6)
[redacted]

The Office of the Governor is in receipt of your most recent correspondence regarding your property and alleged contamination. Governor Taft has asked me, as Director of Public Inquiries, to respond directly to your concerns.

Our office has repeatedly tried to assist you in your quest to get the property in question cleaned up of contaminated materials. Starting in 1997, under former Governor Voinovich's term and continuing through Governor Taft's terms, this office has assisted this effort by referring you, and your letters, to the Ohio Department of Commerce's Bureau of Underground Storage Tank Regulations (BUSTR) Section of the Ohio Department of Commerce for review and response. They have assured me that they have done everything in their power to assist you.

While I understand your frustration in this matter, there is nothing further that the Governor's Office can do in order to assist you. Therefore, further contact with the Office of the Governor regarding your situation is unwarranted and unnecessary.

I encourage you, if you remain unsatisfied with your situation, to seek the advice of private legal counsel who can advise you of any further legal options that may lie at your disposal.

Based on the above I consider your issues closed. If, however, you have any new concerns and you feel that you need to contact the Governor's Office, I respectfully ask that you do so directly to me in writing.

Sincerely,

Anthony Brigano
Director of Public Inquiries

77 SOUTH HIGH STREET • 30TH FLOOR • COLUMBUS, OHIO 43215-6117 • 614.466.3555 • FAX: 614.466.9354

9/6/2005

Gov. Bob Taft

Dear Governor Taft

I am writing to you again to try to get help from you and your office. I have written to you several times but I have never received any real assistance from your office, there are several issues that needs to be addressed concerning the safety of the people and the environment, and companies who are leaving their hazardous product on sites all over the State of Ohio, and state government that cannot or will not take action against these companies for their violations. I am sending a copy of the letter I first wrote you March 3, 1999. Brian Hicks received this letter and forwarded this letter to the Ohio Department Commerce with instructions to send a copy of my letter to BP, why? Neither Brian Hicks nor the Ohio Department of Commerce would say why this letter was sent to BP, other than to say this letter was available to the public. I realize this letter was opened to the public, if BP had requested this letter but since BP was not aware of the letter it is obvious that Brian Hicks and the Ohio Department of Commerce was more interested in getting this letter to BP, than they were in protecting me or the people of the State of Ohio and the environment, as my letter showed. What is in it for Brian Hicks and the ODC? What is BP going to do for these people?

The State BUSTR and the ODC has repeatedly said they had the authority to enforce the Ohio revised code 3737.882 and the Ohio administrative code 1301: 7 -9 -13, when they don't. I found this out in 1994 in a letter that the U.S. EPA Region 5 sent to my Attorney from Gerald Phillips, his letter said the State of Ohio BUSTR did not have the authority to enforce the Underground Storage Tank regulations because the State program had never been approved to operate in lieu of the federal program, therefore BUSTR could not enforce the Federal or State UST regulations. In 1997 the Ohio Department of Commerce sent a letter to the Ohio Inspector General Robert Ward, who I had requested assistance on this matter that said the Ohio Department of Commerce nor BUSTR had the authority to enforce the Ohio Revised Code 3737.82 or the Ohio administrative code 1301:7-9-13. So why is BUSTR and the 0.D.C. lying to the public about having the authority one time and not having the authority the next time?

The Ohio UST program has never been federally approved, why? What are these people doing wrong that they can't get these regulations federally approved? Two representatives from the U.S. EPA Inspector General's office confirmed that the Ohio UST program had never been approved to operate in lieu of the federal program in a meeting I had with them February 2004. As I discussed with these representatives in that meeting that if the State UST program has not been approved, that would mean all these old gas stations that were closed illegally and not properly investigated, would have to be reopened and investigated by the proper authority. So again I must ask, why are these people lying to the public knowing that allowing the oil companies to cover these sites over without cleaning them up is putting millions of people at risk, and causing irreversible damage to the environment?

If the Ohio UST program has never been federally approved then why is BUSTR receiving millions of dollars a year to oversee this program? (Would that not be considered receiving millions of dollars without performing a service to the public?) Is that so the State of Ohio can continue to receive millions of dollars a year for doing nothing to protect the human health and environment, and everything to protect

the oil companies? There is thousands of these sites all across the State of Ohio that have not been properly closed, including mine, containing large amounts of hazardous chemicals that our State Government is not doing anything about to protect the people or their property, why?

The Columbus Dispatch who I had requested them to investigate these old gas stations around the Columbus area that had never been investigated to determine what hazardous chemicals that was left on these sites and if the tanks were removed. The Columbus Dispatch contacted the BUSTR Chief Peter Chase about these gas stations that were closed without being investigated and Mr. Chase's reply was, when we find out there is a problem concerning these old gas stations we investigate and correct the problem. Mr. Chase also told the Dispatch that BUSTR had cleaned up over 6400 of these sites since 1988. If the BUSTR program has never been approved then how could BUSTR have cleaned up these sites? And under what authority was BUSTR operating under? I have looked at a lot of these old gas stations around the Columbus area and I have yet to see BUSTR clean up or properly investigate any of these sites and I have yet to see any of the oil companies clean up these contaminated sites to meet federal regulation requirements, including mine. The Columbus Dispatch ran a story on this August 1st of 2004, I contacted the Dispatch in August of 2005 the Dispatch said they had not received anything from BUSTR and was not aware that BUSTR had investigated any of these sites that the Dispatch notified them of. If these sites were not cleaned up according to federal UST regulations, then the EPA should investigate these sites under State and Federal environmental and hazardous waste regulations, because their product is listed as containing hazardous chemicals and a known risk to the human health and environment. The State of Ohio in allowing the oil companies to leave the contamination there without cleaning it up, also violates the clean air, clean water, and clean soil regulations, and should be investigated under those regulations.

Also of concern is the administrative order that the State Fire Marshal issued to BP October of 1999 notifying BP that due to the repeated deficiencies in the work and failing to complete the work as required that BP was to complete the site assessment according to the Ohio revised code 3737.822 and the Ohio administrative code 1301:7-9-13 in 90 days. BP did not complete the work in the 90-day time frame, so BP appealed the administrative order to the Ohio Environmental Review Appeals Commission without any grounds for their appeal, how can BP appeal the administrative order when it only tells them to do work according to the regulations? And why would the State Fire Marshal issued the administrative order citing State UST regulations that has never been federally approved? And why would the Environmental Review Appeals Commission approve an appeal without sufficient grounds? E R A C kept this appeal going for over two years knowing there was no grounds for the appeal, and refuse to set up a hearing on this matter, knowing it would delay the site investigation and violates my right. What are Brian Hicks, the Ohio Department of Commerce, the Ohio Attorney General's office, E R A C, Inspector General Ward, and State Fire Marshal looking to get from BP that they do everything in their power to protect BP, instead of a damaged party or the public and environment?

I contacted BP after many complaints by the tenants on the damage to the property that was caused by BP contractors during the work, drilling the wells and soil borings. BP met on site and said they would pay for the damages to the parking area and concrete sidewalk; I had estimates for the work and BP agreed to the price. BP said they would send an agreement in writing, when I received that agreement it stated they would pay for the repairs but I would have to sign off that completing the repairs to the parking lot and sidewalk would fulfill BP's obligation to the[(b) (6)] I did not sign that agreement because that does not fulfill BP's responsibility to me and my family and the people of the State of Ohio because the site

assessment has not been completed and the contamination has not been cleaned up according to federal regulations to protect the human health and the environment. It does not fulfill BP's obligation to conduct a complete and accurate site investigation, both on site and off site. The work that BP contractors did was neither accurate, nor complete, as my consultants have proved repeatedly throughout the site assessment investigation that started in 1992, and shows that BP and their contractors and the State of Ohio are intentionally endangering the lives of the people when not cleaning the contamination up.

Given the fact as you have I'm asking for your help in getting compensation for the damages to the property and any health problems for me and my family associated with the contamination that BP left on my property and refuses to clean up. I'm asking for compensation according to the regulations that my family and I are entitled to. Congresswoman Deborah Pryce, contacted the BUSTR chief Andy Lyles and notified Mr. Lyles that issuing the no further action letter in January of 1993 before the site investigation was completed, was wrong and should be corrected, also stating in that letter that my family and I was entitled to compensation according to the Federal and State UST regulations. I am asking for compensation for damages to the property due to the large amount of hazardous chemicals that remain on site that BP refuses to clean-up, and reimbursement of expenditures that I have put out over the years for attorneys and consultants, I am also requesting compensation for the taxes I have paid on a property at market value because of the contamination, I feel that if BP is not going to clean the contamination up then they should be responsible for the taxes not a damage party. I'm also asking for compensation for the countless hours I have put in while BP and their contractors were doing the site assessment investigation over the past 13 years. BP should also be required to pay full taxes on any of their contaminated properties that have not been cleaned up; the people should not suffer because of their negligence. BP, their contractors Hull and associates, and the State of Ohio, has been negligent throughout this entire site investigation and there's plenty of information to support my statement.

I'm also concerned that the State of Ohio is using tax dollars to clean up contaminated sites that is the responsibility of the company or person that left the contamination there, examples are the Bedford landfill in Gahanna Ohio, the Timken Co. in Columbus Ohio, New Boston coke plant site, and many other sites around the area that are applying for millions of dollars to clean these contaminated sites up when is the responsibility of these companies, the State of Ohio is responsible for investigating the site and the EPA has found in the past that all these sites had committed violations that the State never forced and them to correct these violations, now they want the public and taxpayers to pay for their mistakes.

There is nothing complicated about this issue to figure out, there has been over 20 years of violations on my property along by BP, there has been 20 years of failure by the State of Ohio to take action against BP for their repeated violations. This definitely should be address and BP and the state agencies and government employees should be held accountable.

I have plenty more information that will prove my case against BP and the State of Ohio, if you are interested. I would ask that you give a speedy response to this issue as it has been going on way too long and millions of people are being put at risk by allowing the oil companies to leave these sites contaminated, the State BUSTR has repeatedly told the oil companies they could leave the contamination there, when they cannot, it violate State and federal Environmental Regulations and this also should be corrected, because BUSTR, certainly does not have the authority to tell the Oil Companies they can leave the contamination when they know it is a risk to the human health and the environment.

If you have any questions regarding this matter and would like additional information feel free to contact me at (b) (6)

Sincerely yours

(b) (6)

And family

March 3, 1999

Governor Robert Taft
State of Ohio
Office of the Governor
Columbus, Ohio 43266-0601

RE: (b) (6) [redacted]

Dear Governor Taft

I am writing to you about a piece of property I own that was contaminated by a underground storage tank release. The State Fire Marshal / Bureau of underground storage tank regulations (Commonly called BUSTR) Notified BP America in April 1992, that a Release had been confirmed, and as owner/operator of the tanks they were required to conduct a site assessment according to the regulations. (BP has never did the work the regulations require that BUSTR notified them to do .) The site assessment has been going on for over seven years and is only half completed, due to the failure of BP to do the work the regulations require, and due to the negligence of BP's contractor's when doing the work, and failing to correct the deficiencies in their work from 1992 and 1994, that BUSTR notified them to correct . And due to BUSTR's failure to issue an order or citation to BP for failing to do the work the regulations require, and BUSTR's failure to enforce the regulations to protect the people .

I am requesting an investigation of the State Fire Marshal/Bureau of underground storage tank regulations, and the Ohio Department of Commerce, For failing to enforce the underground storage tank Laws and regulations, and in their grossly inadequate oversight of the investigation and review of the site work conducted by BP's contractor's. and for failing to take action against BP America and their contractor's for their repeated violations. The regulation state anyone who violate these regulations are subject to fines of up to $10,000 dollars per day until the violations are corrected, BUSTR has never issued a citation or taken any actions against BP for their violations. BUSTR and the Ohio Department of Commerce is well aware that a site assessment that has not been completed in over seven years does not meet the regulation requirements for completing the site assessment. The Ohio Department of Commerce, and BUSTR has failed to protect the public by failing to enforce the law, and has failed to notify the public about the imminent health and environmental dangers from these underground storage tank releases. Cancer causing chemicals have been found over a large area on this site and has been found in two aquifers, this contamination has been found as far down as 22 foot. After reviewing the work BP's contractor's did on my property, my consultants notified BUSTR that it was most likely that the contamination had migrated off site. BUSTR has not contacted any neighboring Property owner's, to advise them that this contamination might have migrated off site onto their property and could pose a health and environmental risk to them and damage to their property.

Other areas of concern are the statements made by BUSTR and the Ohio Department of Commerce who has stated I have denied BP access to the site. The facts will show that BP was never denied access to do any site assessment work. They repeatedly state I must give BP adequate access to the property to complete the site assessment work that the regulations require.

BP has never submitted a work plan that would complete the site assessment work as required. And has never submitted a work plan to correct the work BUSTR and the U. S. EPA Region 5 notified them to correct, and to do further investigation of the highly contaminated areas found by my consultants and Region 5 in the work that was done in 1992, (So when was BP denied access?)

The site investigation has not been conducted according to the regulations requirements that BP was notified to do. The work that has been conducted has been found to be wrong every time BP's contractor's do any work, BP is notified to correct this work that was found to be wrong but never do, this is why I asked BUSTR to remove BP and their contractor's from any further site assessment work. (BUSTR has refused to remove BP and their contractor's.) BP's refusal to correct their work shows that BP and their contractor's cannot be trusted to do any further site investigations or clean-up work. BUSTR was negligent in their investigation and review of the work that has been done and in the enforcement of the underground storage tank regulations, and for not ordering BP to conduct the site assessment according to the regulations. This also shows that BUSTR cannot be trusted to oversee the site assessment work to bring these sites to a safe level and cannot be trusted to enforce the underground storage tank Laws and regulations. These regulations were meant to protect the human health and the Environment, and if these people cannot enforce these regulations they should be dismissed and replaced with those who can, and will enforce the regulations no matter who the responsible person is. (It is the Law.)

Seven years of no Enforcement and seven years of Violations tells the whole story as to why the site assessment has not been completed . I am left with a piece of property that has no resale value because of the contamination that was left on this site . I have been forced to spend thousands of dollars to protect my family and my property because the State will not enforce the underground storage tank Laws and regulations. Now BUSTR and the Department of Commerce are trying to force me to except the negligent and incompetent work that has been done by BP and their contractor's.

I am requesting an investigation of the Department of Commerce and State Fire Marshal/Bureau of Underground Storage Tank Regulations, for their mishandling of the site assessment investigation by BP and their contractor's.

I'm also requesting that BUSTR be ordered to enforce the regulations and remove BP and their contractor's for their failure to do the work according to the regulation requirements, and for the negligent and incompetence work they did on the site assessment.

BUSTR should also be ordered to bring in a contractor to do a full site investigation of the work that BP and their contractor's did on this site assessment. Other areas of concern is areas found in the work in 1992 where high levels of contamination was found in the soil and groundwater that has not been further investigated as BP was notified to do. Also in the work of 1994 in the decommissioning of those wells from 1992 and especially in the substance that was injected into these wells and boring's that was supposed to harden to a cement like condition, but never did. Samples was collected of this substance eight months after these wells was injected with this substance and it was still in a semi liquid condition. BUSTR was notified of this but has never investigated this report and has no answers for me as to what it is.

The contractor that is chosen should do a complete site assessment investigation including the directional drilling under the building where large amounts of contamination was found, testing in all tank cavities , locating the unleaded tank that has not been accounted for, testing in all the piping runs, and to investigate for off sites migration of this contamination.

I am requesting compensation for damages caused by this release. The regulations provide for damages when a responsible person cannot or will lot correct the release, and as you can see BP and their contractor's cannot do the work correctly, and BP as stated, they will not dig-up the site or tear down the building to remove the contamination.

I would ask that you give my letter serious consideration, please contact me with you're thoughts on this matter. It is time for someone to put a stop to the big companies running over the little people, and make our State safe for our kids and Grand kids.

If you have any questions or need any other information you can contact me at (b) (6)
or at (b) (6)

Sincerely

(b) (6)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

February 22, 2005

REGISTERED MAIL, RETURN RECEIPT REQUESTED

(b) (6)

(b) (6)

The following is provided in response to your January 3, 2005 letter. We have responded to each paragraph of your letter.

You requested copies of the Underground Storage Tank (UST) laws and regulations that were used to develop our letter. United States Code, Title 42, Chapter 82, Subchapter IX, Section 6991 b and c, and 40 CFR § 280.73 are the applicable federal regulations. These regulations can be accessed via the Internet at http://www4.law.cornell.edu/uscode/42/6991c.html and http://ecfr.gpoaccess.gov/, respectively. Ohio Administrative Code 1301:7-9-13, September 1, 1992, is the applicable State statue. This document is also available via the Internet at http://onlinedocs.andersonpublishing.com/oh/. We also consulted the Resource Conservation and Recovery Act Subtitle I, Ohio Revised Code Section 3737.01, and Ohio Administrative Code 3737-1 for rules on compensation. These documents are also available on the Internet at http://www.epa.gov/oust/fedlaws/sttlitxt.htm, http://www.petroboard.com/revisedcode.htm, and http://www.petroboard.com/Admincode.htm, respectively. Moreover, all governmental documents should be readily available at your local library. For additional State or private (BP, contractor, etc.) documents, you should contact the party responsible for maintaining those documents.

You indicated that we did not review your June 13, 2003 letter and, therefore, developed incorrect findings. You also suggested that we should review your letter more thoroughly. We did, indeed, review your June 13, 2003 letter in great detail. The many allegations contained in your letter were used to formulate the major objectives for our review of your case. However, our findings were not based solely on the allegations and

information you provided, but also they were based on State and local governmental documents, official records, interviews, and other information from many other sources. We stand by our findings.

You also indicated that since the State of Ohio does not have a federally approved or mandated UST program, the State (as well as Region 5) was incorrect or fraudulent in collecting millions of dollars to oversee/enforce the State's UST program. Our reply, in short, is that a State is **not** required to have an approved or mandated UST program to oversee the work of a responsible party. The State has a responsibility to ensure the responsible party satisfies the requirements of applicable federal regulations. In turn, the satisfactory application of federal standards to cleanup of UST sites is overseen and enforced by a federal agency, in your case EPA Region 5. Therefore, the fact that the State has no approved or mandated UST program has no bearing on the cleanup of your property; hence, your allegation of fraud was unfounded.

You stated that Standard Oil (BP) did not follow City and State laws when removing the tanks from your property in 1985 and suggested the City did not fulfill its enforcement responsibilities. Our response is in two parts: First, if you believe that Standard Oil's, the City's, or the State's actions in 1985 wronged you or your family, then that is a civil issue, between you and them, that may be settled through other avenues such as arbitration or litigation. Second, actions by those entities prior to the enactment of federal regulations cannot be pursued through the EPA in terms of enforcing federal UST regulations; simply because the regulations did not exist when your tanks were removed. As we indicated in our previous letter, federal UST regulations were enacted after your tanks were removed and do not apply to your situation. The federal regulations, in this instance, cannot be retroactively applied. Further, after months of research, we found nothing that would substantiate your allegations of wrongdoing by Standard Oil, the City, or the State during the tank removal in 1985. Therefore, we will take no further action on those allegations.

You asserted that BP could not meet all of the requirements of the Ohio Administrative Code since the State did not have a federally approved program. As stated in paragraph four above, the State is **not** required to have a federally approved UST program in order to establish State UST Codes or to oversee the work of responsible parties. Therefore, not having a federally approved program has no bearing on the enactment or legitimacy of the State's Codes.

In addition, you stated that Congresswoman Deborah Pryce feels that you and your family are entitled to compensation and that our findings are incorrect. We stand by our findings that you do not qualify for compensation from the State or Federal UST compensation programs because your tanks were removed before those compensation programs came into existence.

You stated that you disagree that the information you provided was in question. We have not directly stated or implied that we questioned the information you provided. As

indicated above, we took your information and used it as the basis for our review and focused our review only on the issues and allegations raised in your complaint.

Finally, we have thoroughly reviewed your allegations and concerns. Our findings are conclusive. We feel that our written response speaks for itself and requires no further explanation. Therefore, we will not pursue your allegations any further. If you desire other information such as reports or official documents, you may request them through procedures established in the Freedom of Information Act.

Sincerely yours,

for Paul D. McKechnie
Acting National Ombudsman
Office of Congressional and Public Liaison

In response, reply to:

Mr. Paul D. McKechnie
Acting Ombudsman, Office of
Inspector General, U. S. EPA
One Congress Street, Suite 1100
Boston, MA 01224-2033

RS-06-002-1096-C

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN - 8 2007

REPLY TO THE ATTENTION OF:
R-19J

Honorable Patrick J. Tiberi
Member, United States
House of Representatives
3000 Corporate Exchange Drive
Suite 310
Columbus, Ohio 43231

Dear Congressman Tiberi:

Thank you for your December 14, 2006, letter on behalf of your constituent [redacted]. In [redacted] December 4, 2006, letter to Congresswoman Deborah Pryce, he expressed concerns about an underground storage tank release that severely damaged his property and alleges that British Petroleum Oil Company (BP) refuses to complete the site assessment.

[redacted] has contacted Region 5 numerous times regarding the release/site assessment issue. US EPA's Office of Inspector General (OIG) investigated [redacted] concerns and provided him with their findings in a letter dated November 8, 2004 (enclosed). The OIG thoroughly reviewed the allegations made by [redacted] about the contamination on his property and whether the issue was properly addressed. The OIG determined that BP met all the applicable requirements of Ohio Administrative Code 1301. In addition, the OIG Field Engineer concluded that the property has been characterized correctly and that no further remedial action is necessary. The OIG review included the analysis of BP's risk assessment information that was provided to the Ohio Bureau of Underground Storage Tank Regulations (BUSTR). Based on a final risk assessment report that BP submitted in March 2002, BUSTR declared the site clean and issued BP a "No Further Action" decision on April 10, 2002 (enclosed).

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Phil Hoffman or Mary Canavan, the Regional 5 Congressional Liaisons.

Sincerely,

Mary A. Gade
Regional Administrator

Enclosures

05-06-002-1096-C Attach 3!

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
THE INSPECTOR GENERAL

November 8, 2004

REGISTERED MAIL, RETURN RECEIPT REQUESTED

(b) (6)
[redacted]

(b) (6)
[redacted]

We have completed our review of your June 13, 2003 complaint concerning your property at 961 Oakland Park Avenue in Columbus, Ohio (property). The review was in response to allegations you made that contamination on your property had not been properly addressed and that your family should be financially compensated for damages. You further alleged that federal and state regulations for underground storage tank removal and site remediation were not enforced. My staff met with you on February 3, 2004 to discuss your concerns in detail.

Based on your written complaint and our interview, we established three broad objectives for our review, as follows:

- Did British Petroleum Oil Company (BP) follow permit and oversight requirements when removing the underground storage tanks in 1985?
- Did the City of Columbus, State of Ohio, and the EPA or BP enforce or follow state and federal regulations for underground storage tank removal and site remediation at your property? Is the remedial action plan technically sufficient and would we agree that a no-further-action decision was appropriate?
- Are you and your family eligible for financial compensation under state or federal programs?

We focused our review on the three objectives, though we examined all of your allegations. Further, we did not address many of your other issues and allegations because they were (1) lacking in specificity, (2) outside the purview of EPA, (3) overcome by recent events, or (4) resolved in court or are issues between BP and yourself.

We conducted interviews and collected information from you, Ohio's Bureau of Underground Storage Tank Regulation (BUSTR), BP, and EPA Region V. We identified applicable federal, state, and local underground storage tank (UST) laws and regulations. We examined the federal, state, and local laws and regulations and their applicability to the tanks' removal in 1985. We then did a technical review of the BP remedial action plan; and finally, we evaluated the applicability of state and federal compensation laws.

We found that in 2001, BP issued a remedial action plan to address the petroleum hydrocarbons in the soil and groundwater at the site. Ohio's BUSTR approved the plan for implementation. Subsequently, in 2001, the plan was revised to address potential risks to human health associated with residual concentrations of petroleum hydrocarbons which would remain upon implementation of the plan. In March 2002, BP prepared an additional risk assessment in order to evaluate the site based on current and reasonable future land use. BP concluded that the contaminants of concern at the site do not pose an adverse risk for the current and reasonably anticipated future use of the site. Based on BP's report, in April 2002, BUSTR declared the site clean and issued BP a "No Further Action" decision.

We determined the following:

- The State of Ohio did not have a federally approved or mandated underground storage tank program in place in 1985 when storage tanks were removed from your property. Federal UST regulations were not in effect until 1988. Tank removal was governed by the City of Columbus, Ohio, Fire Code. Based on the limited records available from 1985, we agree with the City Attorney's conclusion that BP's removal of the tanks did not violate any law administered by the City of Columbus, particularly since the tank removal in 1985 has been supplanted by site assessment and remedial activities between that time and 2002.

- Our comparative analysis of BP's assessment report and remedial action plan indicated that BP met all requirements of the Ohio Administrative Code 1301: 7-9-13 (i) and (j) in completing its remedial action plan on your property. In addition, our Field Engineer concluded that your property has been characterized correctly and that no further remedial action is necessary.

were removed from your property. Additionally, only the responsible person can apply for compensation from the board, as defined in Ohio Revised Code Sec. 3737.01 (f). BP, as owner and operator of the tank system, is the responsible person.

We conclude that based on the information you provided and our review of documents and interviews, that there is no basis to further pursue your allegations concerning the storage tank removal, remedial action at your property, and third-party compensation for you and your family. This document marks the conclusion of the Office of Inspector General's review of your complaint. We plan to take no further action on your complaint.

If you have any questions, or wish to discuss these findings, please contact me at (617) 918-1471 or Fran Tafer, Assignment Manager, at (202)-566-2888.

Sincerely,

Paul D. McKechnie
Acting National Ombudsman
Office of Congressional and Public Liaison

In response, reply to:

Mr. Paul D. McKechnie
Acting National Ombudsman
Office of Inspector General
U. S. EPA
One Congress Street, Suite 1100
Boston, MA 02114-2033

Ohio Department of Commerce
Division of State Fire Marshal
Bureau of Underground Storage Tank Regulations
6606 Tussing Road • P.O. Box 687
Reynoldsburg, OH 43068-9009
(614) 752-7938 FAX (614) 752-7942
www.com.state.oh.us

Bob Taft
Governor

Gary C. Suhadolnik
Director

April 10, 2002

MIKE DARR
BP PRODUCTS OF NORTH AMERICA
4850 E 49TH ST MBC1-L
CUYAHOGA HTS, OH 44125

SITE: FORMER BP #07995
(b) (6)
FRANKLIN COUNTY
RELEASE #25010692-N00001

RE: NO FURTHER ACTION STATUS REGARDING CORRECTIVE ACTION REQUIREMENTS

Dear Mr. Darr:

The Bureau of Underground Storage Tank Regulations (BUSTR) has reviewed all information submitted for this release. Based on this information, BUSTR requires no further action involving corrective action under Ohio Administrative Code 1301:7-9-13, effective September 1992.

Thank you for your cooperation. If you have any questions, please contact our office at (614) 752-7938.

Sincerely,

Kelly J. Gill
Corrective Action Supervisor

rl
xc: Site File
Kenneth Conley, Property owner

Congress of the United States

Washington, DC 20515

September 12, 2007

Stephen L. Johnson, Administrator
Environmental Protection Agency Headquarters
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Administrator Johnson,

We are writing to encourage your participation in an important upcoming event in Washington, D.C. to celebrate the 50th anniversary of the Antarctic Treaty. As you may be aware, an international and interdisciplinary summit will be convened for 3-4 days in early December, 2009 in Washington, D.C.

The *Antarctic Treaty* was signed by the United States and eleven other nations in Washington, D.C. on December 1, 1959. It is an international agreement regarding management of nearly 10 percent of the Earth for *"peaceful purposes only... on the basis of freedom of scientific investigation."*

Over the past five decades, the Antarctic Treaty System has succeeded as a firm foundation for ongoing international cooperation, despite many challenges. It has grown to include 46 nations, representing nearly 90% of the world's population.

The 2009 Antarctic Treaty Summit will be a unique venue for scientists, legislators, administrators, lawyers, historians, educators, executives and other members of civil society to explore the science-policy achievements of the Antarctic Treaty System and its global precedents in international governance.

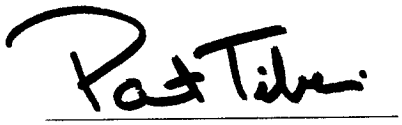
The Summit has been endorsed by the Fulbright Foreign Scholarship Board and additional public-private support also is being provided by the American Geophysical Union, the Marine Mammal Commission and the Tinker Foundation.

We hope that you will recognize the important contributions that the Environmental Protection Agency can make and will identify a liaison to communicate about planning for the Antarctic Treaty Summit. The point of contact is Dr. Paul Arthur Berkman (berkman@bren.ucsb.edu), Fulbright Distinguished Scholar at Cambridge University.

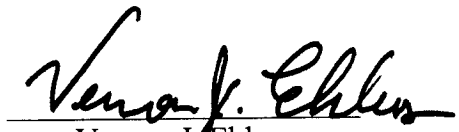
As observed by Laurence Gould (former chairman of the United States National Committee on Polar Research at the National Academy of Sciences):

> *"The Antarctic Treaty is indispensable to the world of science which knows no national or other political boundaries, but it is much more than that... it is a document unique in history which may take its place alongside the Magna Carta and other great symbols of man's quest for enlightenment and order."*

Thank you very much for your consideration.



Patrick J. Tiberi
Member of Congress



Vernon J. Ehlers
Member of Congress

cc: Kathleen Hogan, Director, Climate Protection Partnership.
Judith E. Ayres, Assistant Administrator for International Affairs.
Molly A. O'Neill, Assistant Administrator for the Office of Environmental Information (OEI) and Chief Information Officer (CIO).

Congress of the United States

Washington, DC 20515

February 15, 2008

The Honorable Stephen L. Johnson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Johnson:

As members of Ohio's Congressional Delegation, the quality of life for our constituents as well as all Americans is paramount in our daily decisions. We strive to ensure that all factors are considered when issues are debated and policies implemented. Therefore, we are concerned that the Environmental Protection Agency's proposed revisions to the National Ambient Air Quality Standards for ozone (Docket ID No. EPA-HQ-OAR-2205-0172) would unintentionally harm our constituents. We are writing to formally oppose implementation of these proposed standards.

Mandating tighter ozone standards would reduce economic opportunities throughout the state of Ohio, pose a significant burden to vital industries, and worsen quality of life for many individuals and families.

We all agree that air quality is important, and Ohio has done an impressive job of improving the quality of our air. In fact, the national average for ozone levels decreased by 21 percent from 1980–2006. We agree that the current standards have led to cleaner air and that the successful implementation of the current standards means Ohio's children are growing up in a healthy environment.

Unfortunately, it is our understanding that several studies have been unable to prove that stricter standards lead to better air. Furthermore, many respected environmental scientists have been critical of the USEPA's use of available data to justify tighter standards. Notwithstanding this information, the USEPA claims that new standards are warranted, and estimates the costs to be as much as an additional $10–22 billion every year.

If the proposed standards are enacted, we believe that many of Ohio's business would immediately be in non-compliance, resulting in compounding penalties that could damage our state's economy. Expected restrictive measures would include more controls on emissions from vehicles, livestock, and industries; limits on pesticide applications; and limitations on driving and transportation. As a direct result, some Ohio businesses may be forced to shut down or relocate out of state. Ohio's economy has come to rely on three key components for the health of our economy – manufacturing, agriculture, and tourism – the proposed ozone standards would negatively impact all three.

We hope that once all the factors are considered, USEPA will decide to maintain existing ozone standards; ensuring that not only the quality of our air, but also our economy, is healthy.

Thank you for your time and consideration.

Sincerely,

Congressman John Boehner

Congressman Steve Chabot

Congressman Jim Jordan

Congressman Ralph Regula

Congressman Mike Turner

Congressman Pat Tiberi

cc: The Honorable Josh Bolton

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 3 2008

OFFICE OF
AIR AND RADIATION

The Honorable Pat Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of February 15, 2008, co-signed by five of your colleagues, regarding the U.S. Environmental Protection Agency's (EPA) proposal to revise the national ambient air quality standards (NAAQS) for ground-level ozone. The Administrator has asked me to respond to your letter.

On March 12, 2008, Administrator Johnson revised the ozone NAAQS in accordance with his statutory obligations under the Clean Air Act to review NAAQS standards every five years. The Administrator selected levels for the final standards after EPA completed an extensive review of thousands of scientific studies on the impact of ground-level ozone on public health and the environment. The Administrator also carefully reviewed and considered public comments as well as comment from the Clean Air Scientific Advisory Committee (CASAC) on the proposed standards. EPA held five public hearings and received thousands of written comments on the proposal.

After considering all the evidence, the Administrator judged it appropriate to strengthen the national standards for ozone. Specifically, he decided to strengthen both the primary (health-based) and secondary (welfare-based) ozone standards to a level of 0.075 parts per million (ppm). Previously, both standards were set at 0.08 ppm (effectively 0.084 ppm due to rounding). The Administrator based his decision on an assessment of a significantly expanded body of scientific information which indicates that ozone exposure can reduce lung function and increase respiratory symptoms, thereby aggravating asthma or other respiratory conditions. According to EPA's review of available science, ozone exposure also has been associated with increased susceptibility to respiratory infections, medication use by asthmatics, doctors' visits, emergency department visits and hospital admissions for individuals with respiratory disease, and premature death. In addition, new scientific evidence continues to indicate that repeated exposure to ozone damages sensitive vegetation and trees, including those in forests and parks, leading to reduced growth and productivity, increased susceptibility to disease and pests, and damaged foliage.

The final rule and a number of important materials related to the rulemaking are available on EPA's website at: http://www.epa.gov/groundlevelozone.html. The rule provides a detailed explanation of the rationale underlying the Administrator's decisions.

EPA appreciates the importance of NAAQS decisions to the state of Ohio. I want to assure you that the Administrator carefully evaluated the full body of scientific evidence in order to fulfill his statutory obligation to ensure such standards provide adequate protection for public health and welfare. In addition, he reviewed various comments that the Agency received during the public comment process for this rule. Under the Clean Air Act, decisions regarding the NAAQS must be based solely on an evaluation of the health and environmental effects evidence: while the Administrator is mindful of economic costs in implementing NAAQS, EPA is prohibited from considering costs or ease of implementation in setting the NAAQS.

The United States has made significant progress reducing ground-level ozone across the country. As you note, ozone levels have dropped 21 percent since 1980 as EPA, states and local governments have worked together to improve the quality of the nation's air. EPA expects this improvement to continue, in part through implementation of landmark regulations such as the Clean Air Interstate Rule to reduce emissions from power plants in the East, and the Clean Diesel Program to reduce emissions from highway, nonroad and stationary diesel engines nationwide. EPA recognizes the progress that Ohio has made in reducing ozone pollution and will actively support the state's continued efforts.

Again, thank you for your letter. If you have further questions or concerns, please contact me or your representative may call Josh Lewis, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-2095.

Sincerely,

Robert J. Meyers
Principal Deputy Assistant Administrator

PATRICK J. TIBERI
12TH DISTRICT, OHIO

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON OVERSIGHT

COMMITTEE ON THE BUDGET

POLICY COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515–3512

COLUMBUS OFFICE:
3000 CORPORATE EXCHANGE DRIVE
SUITE 310
COLUMBUS, OH 43231
PHONE: (614) 523–2555
FAX: (614) 818–0887

WASHINGTON OFFICE:
113 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–3512
PHONE: (202) 225–5355
FAX: (202) 226–4523

www.house.gov/tiberi

The Honorable Stephen Johnson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

April 29, 2008

Dear Administrator Johnson:

I write to you about an issue that is affecting many of my constituents as well as Ohioans throughout the state. I ask that you quickly act on an application filed with the U.S. Environmental Protection Agency (EPA) Region 5 Office that would grant authority to the Ohio Department of Agriculture to issue National Pollution Discharge Elimination System (NPDES) permits to confined animal feeding operations (CAFOs), as authorized by the Clean Water Act.

In 2000, the state of Ohio enacted a law that authorized the Ohio Department of Agriculture, (ODA) to apply for authority to issue NPDES permits to CAFOs. Over four years ago, a discussion took place regarding this matter between ODA and the EPA Region 5 office. ODA officially submitted its application seeking NPDES delegation authority for CAFOs in January of 2007, which reflected coordinated input from all three state agencies involved in this process – ODA, the Ohio Environmental Protection Agency and the Ohio Department of Natural Resources and changes made in the Ohio law to accommodate concerns expressed by EPA Region 5 as late as December 2006.

The Attorney General for the State of Ohio certified that the proposed NPDES program, as submitted, met the federal requirements. In addition, Ohio's state permitting program for large livestock farms, which has been enforced by ODA since 2002, is one of the most stringent state regulatory programs in the nation.

The Clean Water Act details the U.S. EPA's responsibility to approve or deny a state's NPDES permitting authority application based on that state's ability to implement the law. The State of Ohio has submitted over 1600 pages of certified documents showing that ODA meets the minimum legal requirements of the Clean Water Act per permitting authority.

In closing, I please ask that you work with the U.S. EPA Region 5 as soon as possible to ensure that the ODA application can be reviewed and approved on this important program. Thank you for your attention.

Sincerely,

Pat

Patrick J. Tiberi
Member of Congress

Congress of the United States
Washington, DC 20515

June 27, 2008

The Honorable Michael O. Leavitt
Secretary
Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

The Honorable Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Secretary Leavitt and Administrator Johnson:

Formaldehyde has received considerable media attention in the past year, with numerous federal and state government agencies conducting reviews of exposure and risks. Given the different interpretations of the current data and the fact that government agencies have taken disparate positions, it is essential that we have a clear understanding of this chemical's effect on human health. The health and safety of the public is our top priority and we believe the best way to understand the impact of exposure is to achieve a consensus understanding of formaldehyde by asking the National Academy of Sciences (NAS) to review all formaldehyde data.

Recent concerns surrounding levels of formaldehyde in FEMA trailers noted by the Centers for Disease Control in their testing make it essential that we have a clear understanding of the health effects of formaldehyde. We are calling on you to jointly refer this matter to the NAS and specifically request them to evaluate the full scope of data on formaldehyde health effects for both cancer and non-cancer endpoints. The review should include an independent reanalysis of the human data on workers from the draft National Cancer Institute (NCI) updates, including both pre- and post-publication reports, and the biologically based dose-response model previously endorsed by NAS, OECD and other authorities. An NAS review at this juncture—before any further government action—will go a long way toward assuring the public and the government that any conclusions about formaldehyde are based on sound scientific facts.

A fresh look and analysis by NAS will provide EPA and other government entities with credible and scientifically sound information to expedite development of appropriate regulatory policies. In addition, an NAS review supports the recent General Accounting Office recommendation that the Environmental Protection Agency (EPA) "develop transparent, credible assessments" that are "within a time frame that minimizes the need for rework" (GAO-08-440 Chemical Assessments, March 2008).

The extensive use of formaldehyde in so many critical applications makes it imperative that we have an understanding of how and when to regulate this chemical. A comprehensive review and analysis of the data on formaldehyde health effects by the NAS will enable regulators to be adequately protective without sparking unnecessary

fears or misleading others into making ill-informed public health decisions that could cause significant economic harm to our nation.

We look forward to your prompt attention to this request.

Sincerely,

Congressman Mark Souder

Third District, Indiana

2231 Rayburn House Office Building
Washington, DC 20515
Phone: (202) 225-4436 Fax: (202) 225-3479

Fax Cover Sheet

Date: 7-1-08

To: EPA Leg Affairs

Fax Number: ( ) - 501-1519

From:

___ Mark Souder

___ Renee Howell	___ Adam Howard
___ Kari Amstutz	___ Mindi Wood
___ Martin Green	___ William Quayle
X Brett Swearingen	___ Jeff Quilhot

Pages (including cover sheet): 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

Mr. Paul C. Brown
National Research Center for Women and Families
1701 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Brown:

I am responding to your June 27, 2008, letter to the U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson, in which you and your colleagues expressed concerns about potentially disparate reviews of formaldehyde exposure and risk held by various Federal agencies and your suggestion to refer the issue to the National Academy of Sciences (NAS).

The Agency agrees that the health and safety of the public is our top priority, and that an updated formaldehyde assessment is needed to better guide decision-making about formaldehyde exposures, such as those from off-gassing from wood products (plywood, particle board, etc.). To that end, we are committed to completing, as expeditiously as possible, an updated assessment of the risks associated with exposure to formaldehyde for EPA's Integrated Risk Information System (IRIS). EPA has nearly finished an internal draft of this assessment, which includes a careful consideration of the available biologically-based dose-response models, as well as of the epidemiology research conducted by the National Cancer Institute and others. We expect to release the draft for interagency review in fall 2008, and to submit a draft for external peer review in early 2009. After public comment and external scientific peer review, we will move without delay to address comments and provide a final assessment. We believe that the established interagency review and comment process for the development of the IRIS assessment is an appropriate mechanism for Federal coordination on the formaldehyde risk assessment.

EPA also recognizes the value of commissioning the NAS to conduct a comprehensive review of the available scientific data on formaldehyde. Although the timeframe for the NAS review will extend beyond that of EPA's assessment and will therefore not impact its completion, we believe that this additional analysis and advice will further strengthen the scientific basis of our understanding of formaldehyde risks. We have discussed this with the NAS and will proceed with the development of a charge to move the effort forward as soon as possible.

Regarding your comments on exposure and options for controlling exposure, EPA announced in a *Federal Register* notice dated June 27, 2008, that it would study and review available information on exposures due to formaldehyde off-gassing from pressed wood products, and various options for reducing those exposures. That investigation will take place under the auspices of the Toxic Substances Control Act (TSCA). Section 9(d) of TSCA provides that the Administrator of EPA shall consult and cooperate with other Federal agencies. Consistent with this provision, EPA will work with the Department of Housing and Urban Development to address formaldehyde emissions from composite wood products.

Thank you for your letter.

Best regards,

George Gray
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Joe Donnelly
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Donnelly:

I am responding to your June 27, 2008, letter to the U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson, in which you and your colleagues expressed concerns about potentially disparate reviews of formaldehyde exposure and risk held by various Federal agencies and your suggestion to refer the issue to the National Academy of Sciences (NAS).

The Agency agrees that the health and safety of the public is our top priority, and that an updated formaldehyde assessment is needed to better guide decision-making about formaldehyde exposures, such as those from off-gassing from wood products (plywood, particle board, etc.). To that end, we are committed to completing, as expeditiously as possible, an updated assessment of the risks associated with exposure to formaldehyde for EPA's Integrated Risk Information System (IRIS). EPA has nearly finished an internal draft of this assessment, which includes a careful consideration of the available biologically-based dose-response models, as well as of the epidemiology research conducted by the National Cancer Institute and others. We expect to release the draft for interagency review in fall 2008, and to submit a draft for external peer review in early 2009. After public comment and external scientific peer review, we will move without delay to address comments and provide a final assessment. We believe that the established interagency review and comment process for the development of the IRIS assessment is an appropriate mechanism for Federal coordination on the formaldehyde risk assessment.

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Thank you for your letter. Should you have any questions, please contact me directly, or your staff may call Ettrina Vanzego in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2792.

Best regards,

George Gray
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Sanford D. Bishop
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Bishop:

I am responding to your June 27, 2008, letter to the U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson, in which you and your colleagues expressed concerns about potentially disparate reviews of formaldehyde exposure and risk held by various Federal agencies and your suggestion to refer the issue to the National Academy of Sciences (NAS).

The Agency agrees that the health and safety of the public is our top priority, and that an updated formaldehyde assessment is needed to better guide decision-making about formaldehyde exposures, such as those from off-gassing from wood products (plywood, particle board, etc.). To that end, we are committed to completing, as expeditiously as possible, an updated assessment of the risks associated with exposure to formaldehyde for EPA's Integrated Risk Information System (IRIS). EPA has nearly finished an internal draft of this assessment, which includes a careful consideration of the available biologically-based dose-response models, as well as of the epidemiology research conducted by the National Cancer Institute and others. We expect to release the draft for interagency review in fall 2008, and to submit a draft for external peer review in early 2009. After public comment and external scientific peer review, we will move without delay to address comments and provide a final assessment. We believe that the established interagency review and comment process for the development of the IRIS assessment is an appropriate mechanism for Federal coordination on the formaldehyde risk assessment.

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Thank you for your letter. Should you have any questions, please contact me directly, or your staff may call Ettrina Vanzego in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2792.

Best regards,

George Gray
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Tiberi:

I am responding to your June 27, 2008, letter to the U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson, in which you and your colleagues expressed concerns about potentially disparate reviews of formaldehyde exposure and risk held by various Federal agencies and your suggestion to refer the issue to the National Academy of Sciences (NAS).

The Agency agrees that the health and safety of the public is our top priority, and that an updated formaldehyde assessment is needed to better guide decision-making about formaldehyde exposures, such as those from off-gassing from wood products (plywood, particle board, etc.). To that end, we are committed to completing, as expeditiously as possible, an updated assessment of the risks associated with exposure to formaldehyde for EPA's Integrated Risk Information System (IRIS). EPA has nearly finished an internal draft of this assessment, which includes a careful consideration of the available biologically-based dose-response models, as well as of the epidemiology research conducted by the National Cancer Institute and others. We expect to release the draft for interagency review in fall 2008, and to submit a draft for external peer review in early 2009. After public comment and external scientific peer review, we will move without delay to address comments and provide a final assessment. We believe that the established interagency review and comment process for the development of the IRIS assessment is an appropriate mechanism for Federal coordination on the formaldehyde risk assessment.

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Thank you for your letter. Should you have any questions, please contact me directly, or your staff may call Ettrina Vanzego in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2792.

Best regards,

George Gray
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Danny K. Davis
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Davis:

I am responding to your June 27, 2008, letter to the U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson, in which you and your colleagues expressed concerns about potentially disparate reviews of formaldehyde exposure and risk held by various Federal agencies and your suggestion to refer the issue to the National Academy of Sciences (NAS).

The Agency agrees that the health and safety of the public is our top priority, and that an updated formaldehyde assessment is needed to better guide decision-making about formaldehyde exposures, such as those from off-gassing from wood products (plywood, particle board, etc.). To that end, we are committed to completing, as expeditiously as possible, an updated assessment of the risks associated with exposure to formaldehyde for EPA's Integrated Risk Information System (IRIS). EPA has nearly finished an internal draft of this assessment, which includes a careful consideration of the available biologically-based dose-response models, as well as of the epidemiology research conducted by the National Cancer Institute and others. We expect to release the draft for interagency review in fall 2008, and to submit a draft for external peer review in early 2009. After public comment and external scientific peer review, we will move without delay to address comments and provide a final assessment. We believe that the established interagency review and comment process for the development of the IRIS assessment is an appropriate mechanism for Federal coordination on the formaldehyde risk assessment.

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Regarding your comments on exposure and options for controlling exposure, EPA announced in a *Federal Register* notice dated June 27, 2008, that it would study and review available information on exposures due to formaldehyde off-gassing from pressed wood products, and various options for reducing those exposures. That investigation will take place under the auspices of the Toxic Substances Control Act (TSCA). Section 9(d) of TSCA provides that the Administrator of EPA shall consult and cooperate with other Federal agencies. Consistent with this provision, EPA will work with the Department of Housing and Urban Development to address formaldehyde emissions from composite wood products.

Thank you for your letter. Should you have any questions, please contact me directly, or your staff may call Ettrina Vanzego in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2792.

Best regards,

George Gray
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Lynn A. Westmoreland
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Westmoreland:

I am responding to your June 27, 2008, letter to the U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson, in which you and your colleagues expressed concerns about potentially disparate reviews of formaldehyde exposure and risk held by various Federal agencies and your suggestion to refer the issue to the National Academy of Sciences (NAS).

The Agency agrees that the health and safety of the public is our top priority, and that an updated formaldehyde assessment is needed to better guide decision-making about formaldehyde exposures, such as those from off-gassing from wood products (plywood, particle board, etc.). To that end, we are committed to completing, as expeditiously as possible, an updated assessment of the risks associated with exposure to formaldehyde for EPA's Integrated Risk Information System (IRIS). EPA has nearly finished an internal draft of this assessment, which includes a careful consideration of the available biologically-based dose-response models, as well as of the epidemiology research conducted by the National Cancer Institute and others. We expect to release the draft for interagency review in fall 2008, and to submit a draft for external peer review in early 2009. After public comment and external scientific peer review, we will move without delay to address comments and provide a final assessment. We believe that the established interagency review and comment process for the development of the IRIS assessment is an appropriate mechanism for Federal coordination on the formaldehyde risk assessment.

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Best regards,

George Gray
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Steve Buyer
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Buyer:

I am responding to your June 27, 2008, letter to the U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson, in which you and your colleagues expressed concerns about potentially disparate reviews of formaldehyde exposure and risk held by various Federal agencies and your suggestion to refer the issue to the National Academy of Sciences (NAS).

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Thank you for your letter. Should you have any questions, please contact me directly, or your staff may call Ettrina Vanzego in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2792.

Best regards,

George Gray
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Ed Whitfield
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Whitfield:

I am responding to your June 27, 2008, letter to the U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson, in which you and your colleagues expressed concerns about potentially disparate reviews of formaldehyde exposure and risk held by various Federal agencies and your suggestion to refer the issue to the National Academy of Sciences (NAS).

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Thank you for your letter. Should you have any questions, please contact me directly, or your staff may call Ettrina Vanzego in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2792.

Best regards,

George Gray
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Geoff Davis
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Davis:

I am responding to your June 27, 2008, letter to the U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson, in which you and your colleagues expressed concerns about potentially disparate reviews of formaldehyde exposure and risk held by various Federal agencies and your suggestion to refer the issue to the National Academy of Sciences (NAS).

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Thank you for your letter. Should you have any questions, please contact me directly, or your staff may call Ettrina Vanzego in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2792.

Best regards,

George Gray
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Mike Ross
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Ross:

I am responding to your June 27, 2008, letter to the U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson, in which you and your colleagues expressed concerns about potentially disparate reviews of formaldehyde exposure and risk held by various Federal agencies and your suggestion to refer the issue to the National Academy of Sciences (NAS).

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Thank you for your letter. Should you have any questions, please contact me directly, or your staff may call Ettrina Vanzego in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2792.

Best regards,

George Gray
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Mark E. Souder
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Souder:

I am responding to your June 27, 2008, letter to the U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson, in which you and your colleagues expressed concerns about potentially disparate reviews of formaldehyde exposure and risk held by various Federal agencies and your suggestion to refer the issue to the National Academy of Sciences (NAS).

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Thank you for your letter. Should you have any questions, please contact me directly, or your staff may call Ettrina Vanzego in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2792.

Best regards,

George Gray
Assistant Administrator

ROBERT E. LATTA
5TH DISTRICT, OHIO

COMMITTEE ON AGRICULTURE
SUBCOMMITTEE ON
GENERAL FARM COMMODITIES AND
RISK MANAGEMENT
SUBCOMMITTEE ON
HORTICULTURE AND ORGANIC AGRICULTURE

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE
SUBCOMMITTEE ON
HIGHWAYS AND TRANSIT
SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT

Congress of the United States
House of Representatives
Washington, DC 20515–3505

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(202) 225–6405

DISTRICT OFFICES:
1045 N. MAIN STREET
SUITE 6
BOWLING GREEN, OH 43402
(419) 354–8700

101 CLINTON STREET
SUITE 1200
DEFIANCE, OH 43512
(419) 782–1996

130 SHADY LANE DRIVE
NORWALK, OH 44857
(419) 668–0206

March 17, 2009

Lisa Jackson, EPA Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are contacting you to bring to your attention a very serious issue relating to wastewater and drinking water infrastructure facing communities across the state of Ohio. According to estimates by the Congressional Budget Office, Environmental Protection Agency and the Water Infrastructure Network, it could take between $300 and $400 billion to address our nation's clean water infrastructure needs over the next 20 years to keep our drinking water and waterways clean and safe. The need in Ohio is substantial, with an estimated $21 billion needed to adequately address Ohio's water infrastructure needs. While this in itself has put undue strain on the budgets of these local communities, many of these Ohio communities are facing serious, expensive enforcement proceedings by the Ohio Environmental Protection Agency because they could not afford the upgrades required by law in the first place.

During this difficult economic time for our country and its citizens, Ohio communities are being put in a very tough situation: feeling great pressure to comply with regulations while at the same time facing the reality that, in many cases, there simply are not funds available for these communities to fund the projects being mandated upon them.

To make the best of this situation, we respectfully request that you direct the Ohio Environmental Protection Agency to, as appropriate, grant variances so these communities can make the improvements needed to their drinking water and wastewater systems.

While we all agree that our nation's health, quality of life, and economic well-being rely on adequate drinking water and wastewater treatment, the current requirements present an undue burden on these Ohio communities during these tough economic times. Please grant our request and provide flexibility to these Ohio communities until the U.S. economy is able to adequately recover.

We look forward to continuing to work with you on this very important issue.

Sincerely,

Robert E. Latta
Member of Congress

Steve Austria
Member of Congress

John Boccieri
Member of Congress

Jim Jordan
Member of Congress

Steve LaTourette
Member of Congress

Patrick Tiberi
Member of Congress

Michael Turner
Member of Congress

Charlie Wilson
Member of Congress

Cc: Chris Korleski, Director, Ohio Environmental Protection Agency

PATRICK J. TIBERI
12TH DISTRICT, OHIO

COMMITTEE ON WAYS AND MEANS
RANKING MEMBER, SUBCOMMITTEE ON SELECT REVENUE MEASURES

SUBCOMMITTEE ON SOCIAL SECURITY

SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT

COLUMBUS OFFICE:
3000 CORPORATE EXCHANGE DRIVE
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COLUMBUS, OH 43231
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FAX: (614) 818-0887

WASHINGTON OFFICE:
113 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3512
PHONE: (202) 225-5355
FAX: (202) 226-4523

www.house.gov/tiberi

Congress of the United States
House of Representatives
Washington, DC 20515-3512

June 6, 2009

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Administrator Jackson:

I write regarding the Clean Fuels Ohio application to the U.S. EPA DERA Program in the amount of $5 million dollars submitted on April 28, 2009.

As you know, the American Recovery and Reinvestment Act of 2009 provided $300 million dollars in funding for national and state programs to support the implementation of verified and certified diesel emission reduction technologies. The Clean Fuels Ohio proposal would use funding to reduce diesel emissions across the state of Ohio. These projects include engine replacements for marine vessels on the Ohio River, anti-idling devices for long haul trucks, aerodynamic packages for delivery vehicles, and propane powered school buses.

Clean Fuels Ohio has a strong track record in Central Ohio for their work to reduce diesel emissions. I hope you will give their application all due consideration.

Sincerely,

Patrick J. Tiberi
Representative to Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL - 9 2009

OFFICE OF
AIR AND RADIATION

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515-3512

Dear Congressman Tiberi:

Thank you for your letter of June 6, 2009, regarding Clean Fuels Ohio's application to the American Recovery and Reinvestment Act's National Clean Diesel Funding Assistance Program. The request for applications closed on April 28, 2009, and a proposal from Clean Fuels Ohio was received. The U.S. Environmental Protection Agency (EPA) will give the proposal the same fair and equitable consideration as all other proposals received under this funding competition.

We appreciate your interest in and support of EPA's National Clean Diesel Campaign. The support and interest from members of Congress, as well as state governments, industry and corporate partners, educators, environmental groups, public health officials, and other community leaders who are committed to protecting our nation's health and modernizing America's in-use diesel fleet is important. The program allows us to work together to achieve the overall goal of reducing the public's exposure to air pollution from the existing fleet of diesel engines.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Diann Franz in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3668.

Sincerely,

Gina McCarthy
Assistant Administrator

PATRICK J. TIBERI
12TH DISTRICT, OHIO

COMMITTEE ON WAYS AND MEANS
RANKING MEMBER, SUBCOMMITTEE ON SELECT REVENUE MEASURES

SUBCOMMITTEE ON SOCIAL SECURITY

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www.house.gov/tiberi

Congress of the United States
House of Representatives
Washington, DC 20515-3512

October 21, 2009

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Administrator Jackson:

I write with concern regarding Section 4.1.1.1 of the EPA Water Sense Revised Draft Water-Efficient Single-Family New Home Specification dated May 8, 2009. As you know, Section 4.1.1.1 proposes the option of limiting turfgrass to no more than 40 percent of the landscapable area.

I support the EPA's efforts to make it easier for Americans to save water and I applaud your work to improve the Water Sense program to better achieve this goal. In addition, I appreciate the EPA's work to carefully consider and incorporate stakeholder input to strengthen the Water Sense program.

Constituents have expressed concern that Section 4.1.1.1 does not promote water conservation. While it is apparent to them that Section 4.1.1.2 is based off of clear scientific evidence, they question the scientific integrity of the one-size fits all 40 percent turfgrass area limitation in Section 4.1.1.1. In addition, they have expressed concern that the section fails to put limitations on water consumption and could actually lead to less conservation.

I understand that many of these concerns have been raised through submitted comments. I strongly encourage you to carefully consider the objections raised to Section 4.1.1.1 and to ensure the program is based off of sound horticultural evidence.

Thank you for your attention to this matter.

Sincerely,

Patrick J. Tiberi
Representative to Congress

cc: Sheila E. Frace, Director, Office of Water

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 2 4 2009

OFFICE OF
WATER

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Tiberi:

Thank you for your letter of October 21, 2009, to Lisa Jackson, Administrator of the Environmental Protection Agency (EPA), expressing your concern about the draft *Water-Efficient Single-Family New Home Specification.* As always, we welcome the interest of Congress and input of the public.

The WaterSense program is an entirely voluntary, market-enhancement program designed to spur investment and innovation in water-efficient technologies and programs. Because it is voluntary in nature, industry and stakeholders may choose to participate if they believe that it will provide a market advantage to them to be more water-efficient or to design more high-performing, water-efficient products. Those products or programs (and in the future, new homes) that meet EPA's specifications may bear the WaterSense label. The label, in turn, helps the public make informed decisions when seeking to make water-efficient purchasing decisions. The program has no required or regulatory components.

The WaterSense program released the revised draft *Water-Efficient Single-Family New Home Specification* on May 8, 2009. EPA received a significant number of comments in response to the first draft of the new home specification which was released in May 2008. Because many changes were made in response to those comments, the Agency wanted to provide stakeholders with a second opportunity to comment before the specification is finalized.

Your letter to the Administrator agrees with the WaterSense-developed water-budget tool, which offers the builder more flexibility. The water budget option allows builders to customize their landscape to local climates and conditions because it is based on local evapotranspiration rates, which do take into account regional climate and local precipitation averages, as well as the needs of whichever plant types the builder/landscaper chooses. The tool is simple to use, requiring just two geographical inputs (all provided by either the EPA website or sites to which the WaterSense program website links), and then the builder or landscaper can enter their desired landscape design and see if it meets the water budget.

Your letter to the Administrator mentions concern that the landscape requirement suggests a "one-size-fits-all specification." In fact, the specification offers builders flexible options for landscaping water-efficient new homes. Planting a maximum of 40% turf allows and encourages flexibility in landscaping the other 60% of the yard. It is important to note that the 40% option applies only to the front yard of the home unless the builder/landscaper elects to install a pool or irrigation system, in which case all landscapable area is subject to the 40% requirement.

Addressing outdoor water use in the specification is critical to defining a water-efficient home and to the success of the program because outdoor water use represents a large proportion of residential water use. On average, single-family homes in this country use 30% of their water outdoors. In some areas of the country it is as high as 70%. Efficient irrigation design and appropriate plant selection will ensure that homes bearing the WaterSense label are efficient both indoors and outdoors.

The WaterSense program is committed to maintaining principles of transparency in developing specifications. In advance of issuing a final specification, WaterSense issues a draft specification (in this case two), EPA holds public meetings to clarify the draft specification, publishes comments received to the Web site, and responds to comments when issuing the final specification. The Agency works very hard to balance the wide range of comments received on each draft specification. We have received other comments similar to those provided by you, and will consider them with other comments as we work towards the release of a final specification. In addition to public meetings, the WaterSense team has had several meetings with representatives of organizations whose members provide outdoor equipment and services to address their concerns. As always, EPA is available to have additional meetings with stakeholders.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Pamela Janifer, in EPA's Office of Congressional and Intergovernmental Relations, at (202)564-6969.

Sincerely,

Peter S. Silva
Assistant Administrator

COMMITTEES:
VICE CHAIRMAN–AGRICULTURE
Chairman–CONSERVATION, CREDIT, ENERGY AND RESEARCH
LIVESTOCK, DAIRY, AND POULTRY

TRANSPORTATION AND INFRASTRUCTURE
HIGHWAYS AND TRANSIT
AVIATION

TIM HOLDEN
17TH DISTRICT, PENNSYLVANIA

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(202) 225–5546

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
July 29, 2010

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Hazardous and Solid Waste Management System; Identification and Listing of Special Wastes; Disposal of Coal Combustion Residuals from Electric Utilities; Docket ID No. EPA–HQ–RCRA–2009–0640

Dear Administrator Jackson:

Thank you for the opportunity to comment on the above referenced proposed rule, published in the *Federal Register* on Monday, June 21, 2010. As you evaluate the development of federal regulations for coal combustion residuals produced by power plants that supply approximately half of the nation's electricity needs, also known as coal combustion byproducts (CCB), we urge you to craft an approach that protects public health and the environment without unnecessarily burdening the economy and jeopardizing important manufacturing and other related jobs.

We strongly recommend that EPA resist calls to regulate CCB as a listed waste under the hazardous waste authorities of subtitle C of the Resource Conservation and Recovery Act (RCRA). A hazardous waste approach represents the most extreme and burdensome regulatory option available to EPA under federal law, is wholly unnecessary, and inconsistent with past Agency decisions. Instead, we urge EPA to develop non-hazardous waste controls for CCB under subtitle D of RCRA for the disposal of CCB in surface impoundments and landfills, consistent with its 2000 Regulatory Determination.

Decades of work by EPA under both Democratic and Republican administrations implementing the Bevill Amendment to RCRA have consistently affirmed – in two Reports to Congress and two related Final Regulatory Determinations – that regulating CCB under RCRA subtitle C is *not* necessary to protect public health and the environment. In fact, EPA found that such regulation would be environmentally counter-productive because the stigma and related liability concerns of regulating CCB under RCRA's hazardous waste program would understandably have an adverse impact on the important objective of increasing CCB beneficial use.

EPA recently reaffirmed its conclusion that subtitle D controls are protective for the disposal of CCB as evidenced by its decision that management of the CCB from the

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TEMPLE, PA 19560
(610) 921–3502

Kingston TVA spill in a subtitle D landfill would be fully protective of human health and the environment. EPA readily acknowledges in the pending CCB proposal that subtitle D non-hazardous waste controls for CCB will provide an equivalent level of protection for CCB disposal units as would hazardous waste controls under RCRA subtitle C.

There also is little question that the subtitle C option would have an adverse impact on jobs creation at a time when the nation is still attempting to recover from one of the worst recessions in our history and millions of people remain out of work. We simply cannot condone a regulatory option that harms rather than helps in the creation of new jobs, but unfortunately that is precisely what the subtitle C option would do.

We have heard from many companies in the still emerging CCB beneficial use markets that are seeing jobs lost from the mere suggestion of regulating CCB under RCRA's hazardous waste program. State departments of transportation have cautioned that the subtitle C option would put further restrictions on the important use of CCB in highway and other infrastructure projects. This could have an adverse impact on employment as available alternatives to CCB use in highway projects are considerably more expensive and would reduce the number of projects that could be covered by federal and state funds.

State environmental protection agencies have uniformly warned EPA that regulating CCB under RCRA's hazardous waste regime would immediately more than double the volume of wastes subject to hazardous waste controls, overwhelming the state budgets and employee resources needed to administer these new regulations. These economic burdens on the states will cause even more financial stress on already stretched state budgets, further accelerating the cuts in state jobs.

We are also concerned that the increased compliance costs under the subtitle C option will translate into increased energy rates for millions of American consumers, which will unnecessarily inhibit consumer spending and further burden our collective goal of an economic recovery.

In short, there is simply no basis to pursue the subtitle C option for CCB with its attendant adverse impacts on jobs creation and economic recovery, when an equally protective and more cost-effective alternative is available for CCB under RCRA's subtitle D non-hazardous waste program. We therefore strongly encourage EPA to pursue the subtitle D option in the final CCB rule.

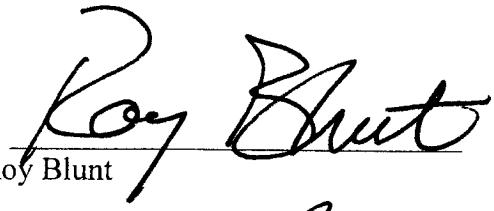
Thank you for your attention to this important matter.

Sincerely,

Tim Holden

Robert B. Aderholt


Steve Austria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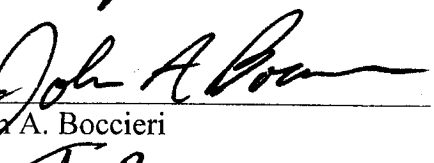
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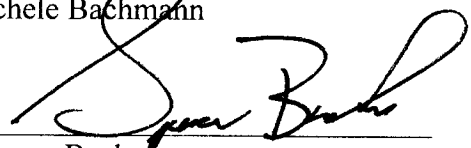
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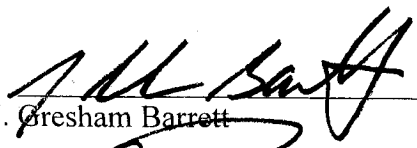
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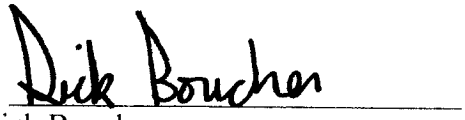
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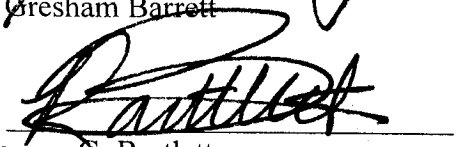
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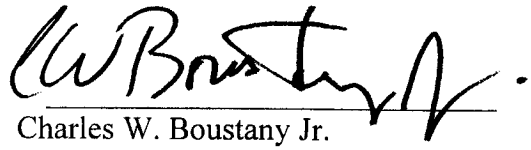
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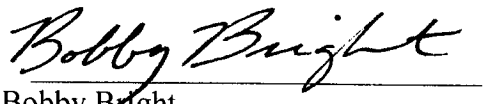
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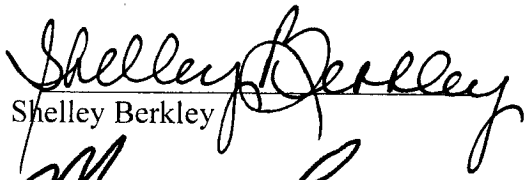
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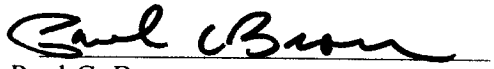
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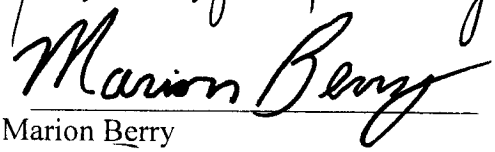
Marion Berry


Eric Cantor


Judy Biggert


Shelley Moore Capito


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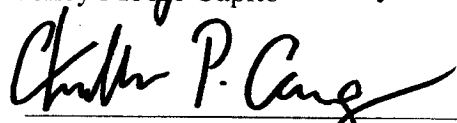
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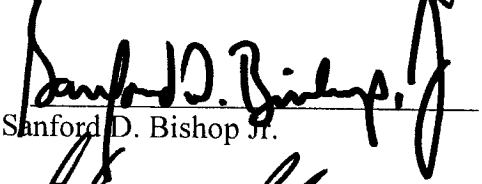
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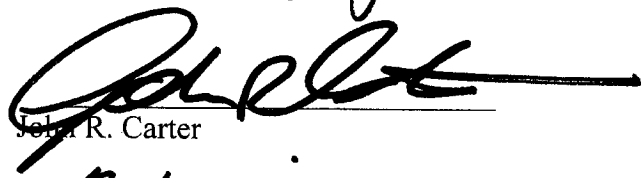
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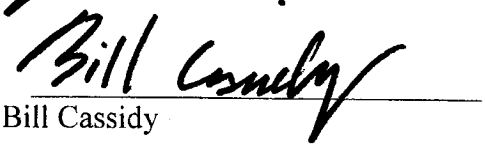
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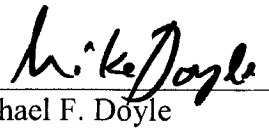
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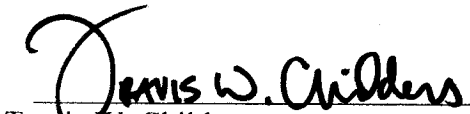
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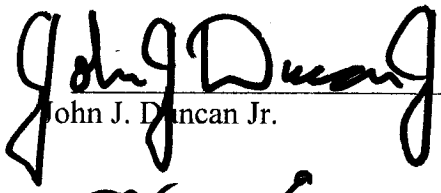
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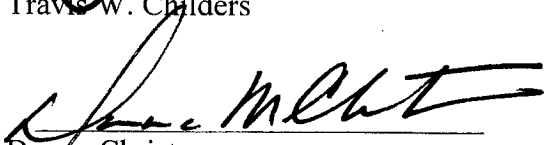
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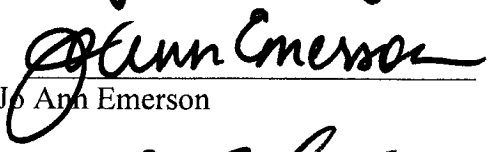
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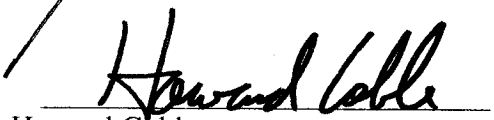
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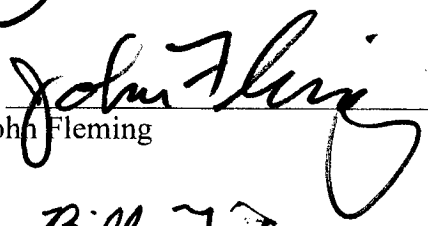
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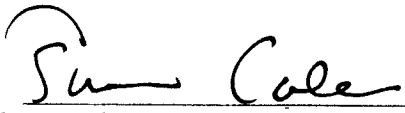
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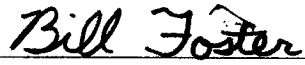
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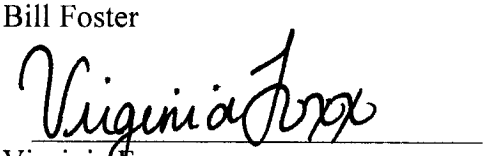
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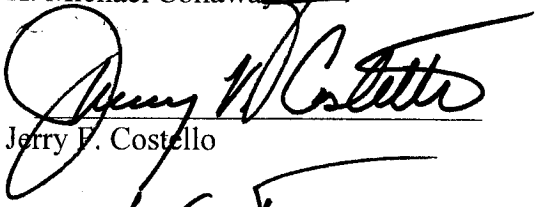
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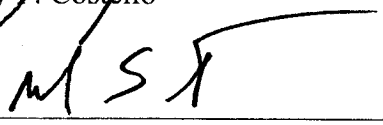
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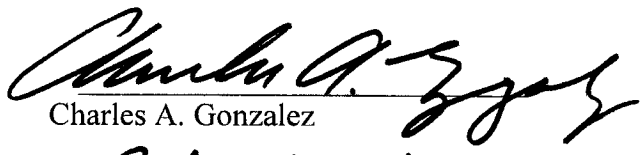
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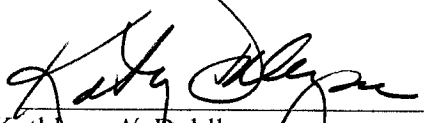
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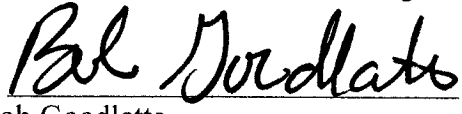
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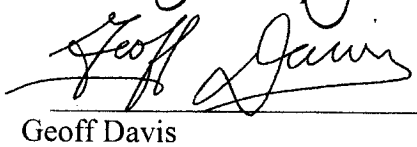
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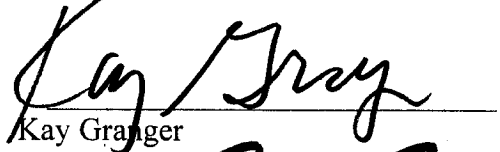
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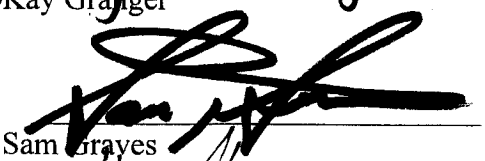
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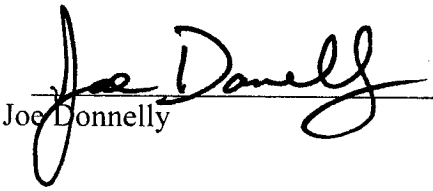
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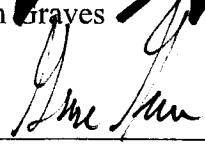
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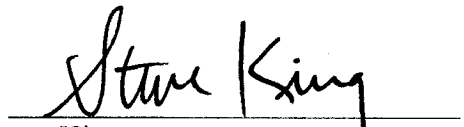
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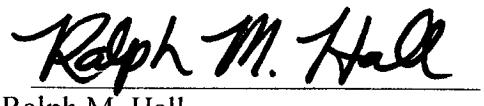
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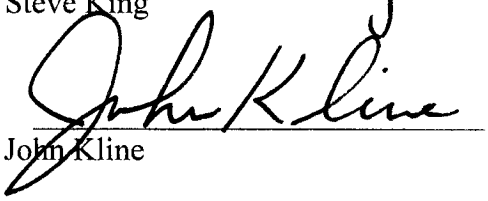
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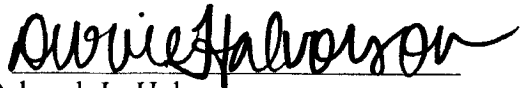
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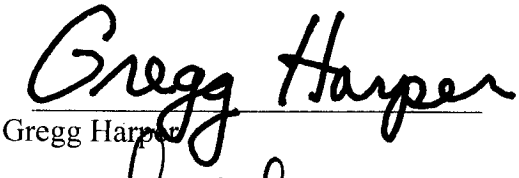
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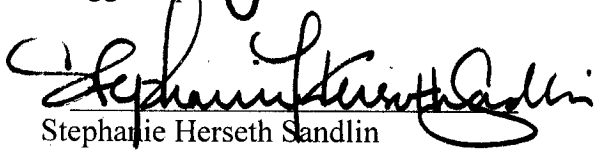
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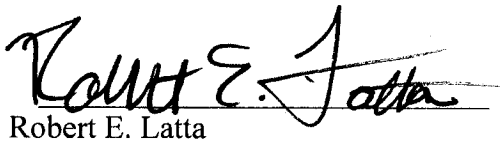
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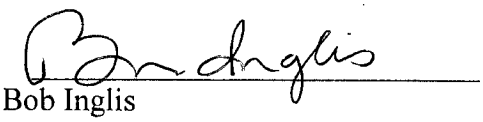
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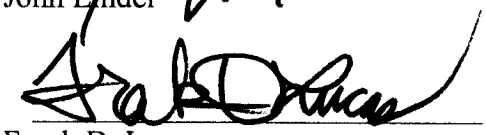
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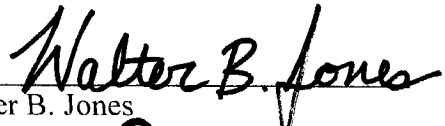
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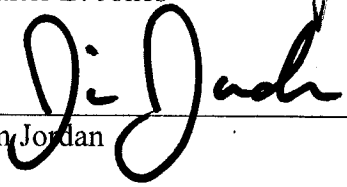
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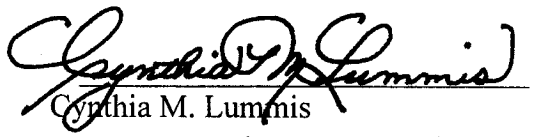
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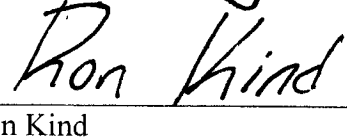
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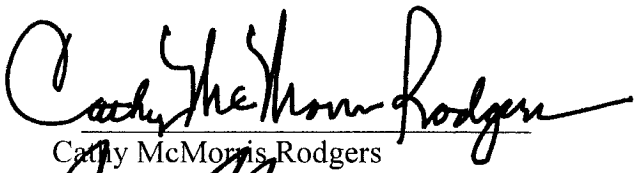
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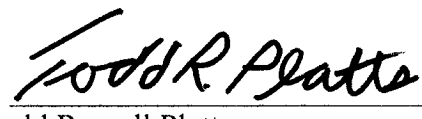
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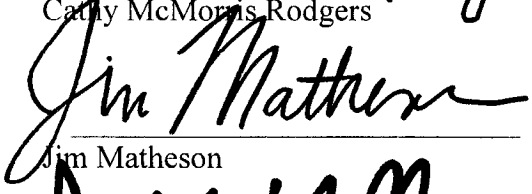
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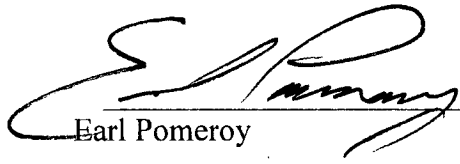
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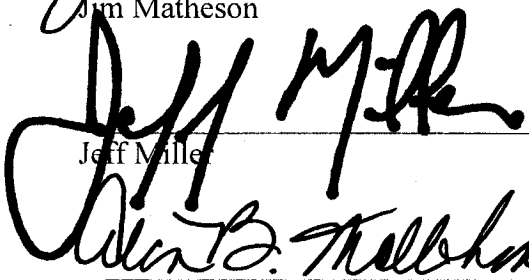
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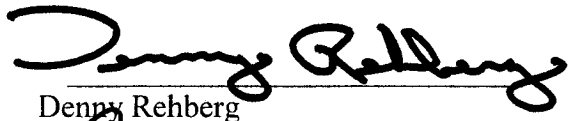
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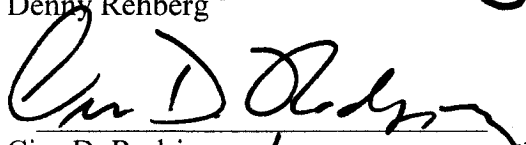
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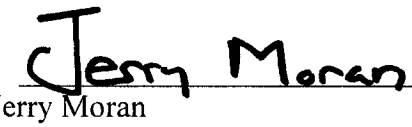
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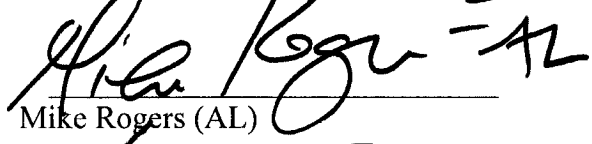
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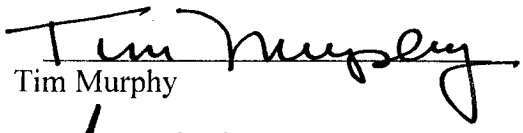
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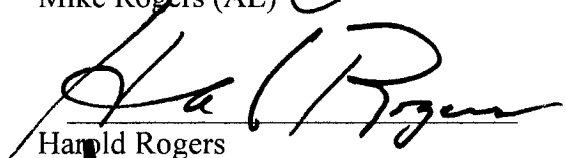
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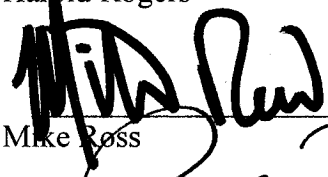
Sue Wilkins Myrick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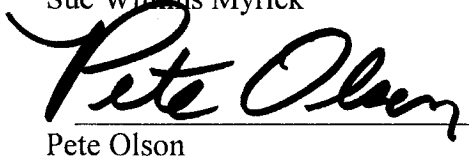
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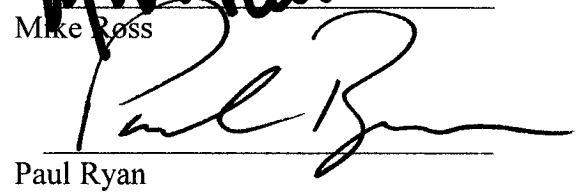
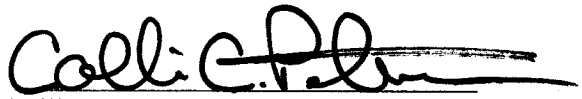

Paul Ryan


Erik Paulsen


Tim Ryan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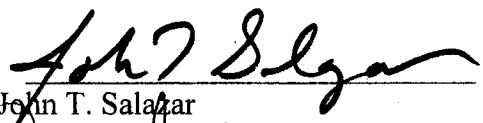
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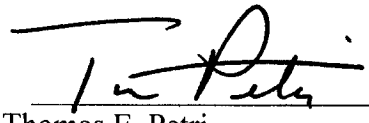
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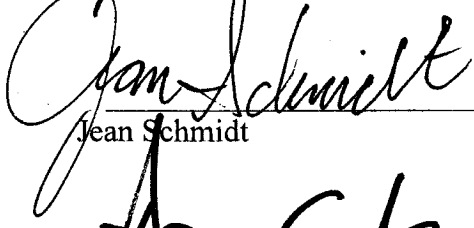
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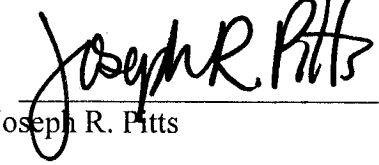
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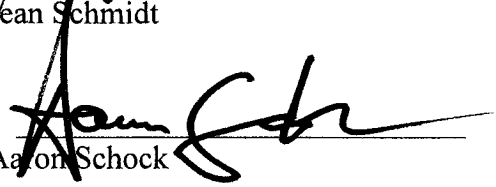

Aaron Schock

F. James Sensenbrenner Jr.

Mac Thornberry

John B. Shadegg

Todd Tiahrt

John Shimkus

Patrick J. Tiberi

Bill Shuster

Peter J. Visclosky

Michael K. Simpson

Timothy J. Walz

Ike Skelton

Lynn A. Westmoreland

Adrian Smith

Ed Whitfield

Zachary T. Space

Charles A. Wilson

Betty Sutton

Joe Wilson

Harry Teague

Robert J. Wittman

Glenn Thompson

Don Young

Doc Hastings

Mike Coffman

Dean Heller

Peter J. Roskam

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP - 1 2010

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

Dear Congressman Tiberi:

Thank you for your letter of July 29, 2010 to U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson, expressing your interest in EPA's proposed rulemaking governing the management of coal combustion residuals (CCRs) and the potential adverse impacts associated with a possible re-classification of CCRs as a hazardous waste. I appreciate your interest in these important issues.

In the proposed rule, EPA seeks public comment on two approaches available under the Resource Conservation and Recovery Act (RCRA). One option is drawn from remedies available under Subtitle C, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. The other option includes remedies under Subtitle D, which gives EPA authority to set performance standards for waste management facilities which are narrower in scope and would be enforced primarily by those states who adopt their own coal ash management programs and by private citizen suits. EPA estimated the potential impact of the proposed rule on electricity prices assuming that 100% of the costs of the rule would be passed through to coal-fired electric utility customers. EPA estimated a potential increase of 0.015 cents per kilowatt-hour under the Subtitle D option to 0.070 cents per kilowatt-hour under the Subtitle C option in potential average electricity prices charged by coal-fired electric utility plants on a nationwide basis.

EPA is not proposing to regulate the beneficial use of CCRs. EPA continues to strongly support the safe and protective beneficial use of CCRs. However, EPA has identified concerns with some uses of CCRs in an unencapsulated form, in the event proper practices are not employed. The Agency is soliciting comment and information on these types of uses.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

Congress of the United States
House of Representatives
Washington, DC 20515

September 22, 2010

Lisa P. Jackson
Administrator, U.S. Environmental Protection Agency
Ariel Rios Bldg., 1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Administrator Jackson:

As members of the bipartisan Congressional Sportsmen's Caucus, the largest and most active caucus on Capitol Hill, we are writing to urge you to dismiss the petition to ban the use of lead in fishing products. The attached letter from leading hunting, fishing and conservation organizations clearly points out that there is no scientific basis to warrant such a far reaching ban on traditional fishing equipment. A similar proposal to ban lead fishing tackle was dismissed by the EPA in the mid-1990s, because there was insufficient data to support such a ban – there is no additional data to support a ban today.

The American wildlife management model is the best in the world, and one of the pillars of this model is that the states retain the authority to manage most of their fish and wildlife. These state agencies are already monitoring and addressing any of the localized issues surrounding lead, making this draconian ban not only unnecessary, but intrusive. In a letter to you on this very issue dated September 2nd, the Association of Fish and Wildlife Agencies, which represents the collective perspectives of the 50 state fish and wildlife agencies, concludes, "A national ban on lead fishing sinkers is therefore neither necessary nor appropriate."

The President's "America's Great Outdoors" initiative is aimed at reconnecting Americans to the outdoors; fishing is an accessible, fun, family oriented activity that should be embraced and encouraged as part of this initiative. A ban on traditional fishing tackle will drive up costs substantially and serve as a disincentive for more Americans to get outside and enjoy this great pastime.

There are 60 million recreational anglers in America that contribute $125 billion to our economy annually. Penalizing these men, women and children that are the best stewards of our environment, as well as the financial backbone to fish and wildlife conservation in our country, would be a terrible and unnecessary injustice.

We urge you to deny the petition to ban the use of lead in fishing products.

Sincerely,

Rep. Dan Boren

Rep. Paul Ryan

Rep. Jerry Moran

Rep. Jo Bonner

Rep. John Boozman

Rep. Michael K. Simpson

Rep. Donald A. Manzullo

Rep. Gene Taylor

Rep. Virginia Foxx

Rep. Charles A. Wilson

Rep. Christopher P. Carney

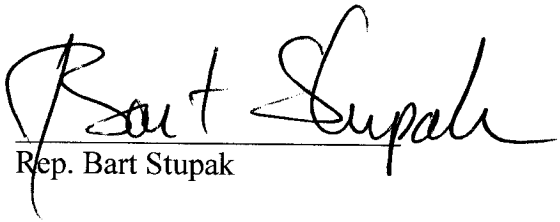
Rep. Ciro D. Rodriguez

Rep. Marsha Blackburn

Rep. Charles W. Boustany, Jr.

Rep. Michael T. McCaul

Rep. Jeff Miller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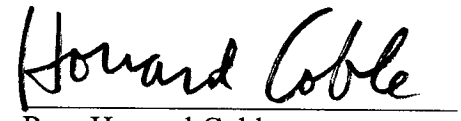
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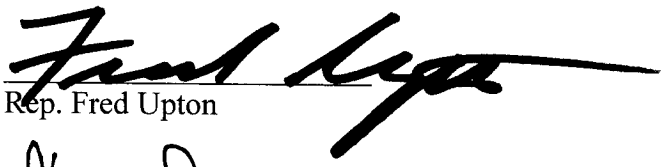
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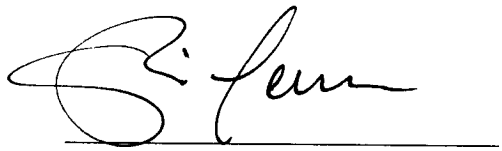
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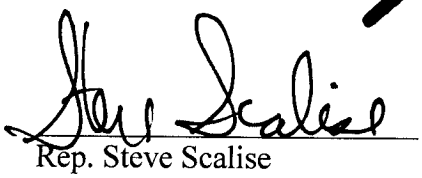
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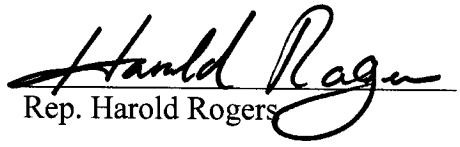
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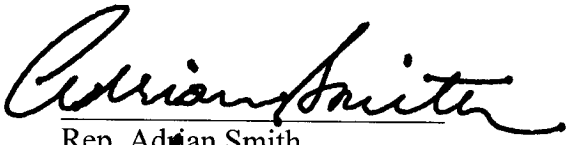
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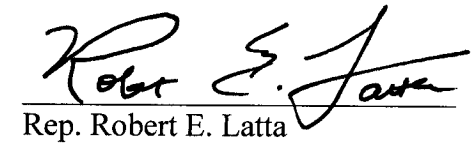
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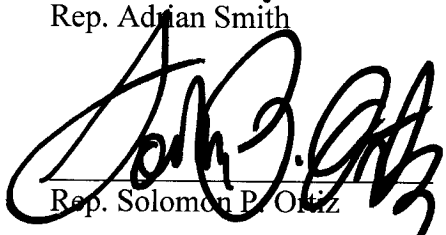
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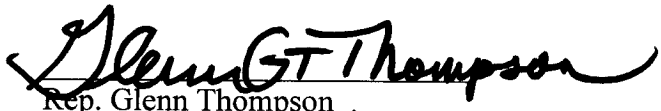
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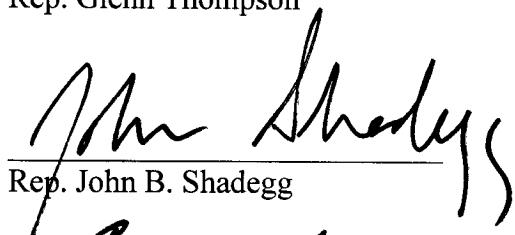
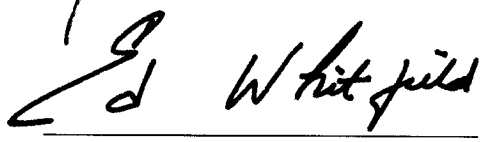
Rep. Steve Austria


Rep. John B. Shadegg


Rep. Sue Wilkins Myrick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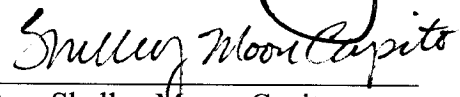
Rep. John A. Boehner


Rep. John Fleming


Rep. Duncan Hunter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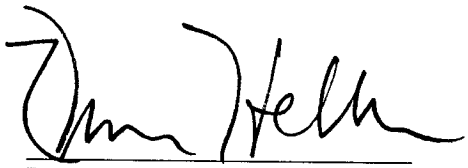
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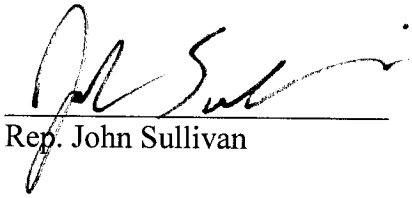
Rep. Kathleen A. Dahlkemper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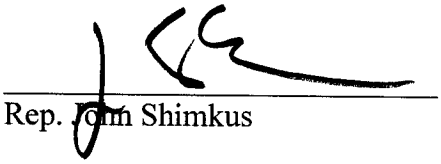
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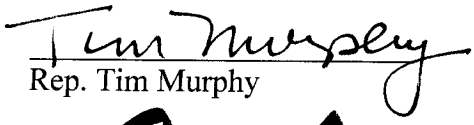
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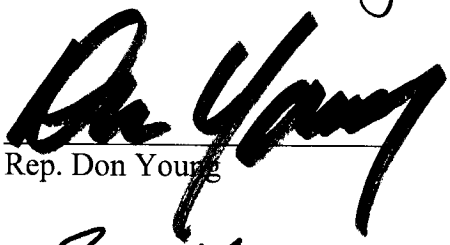
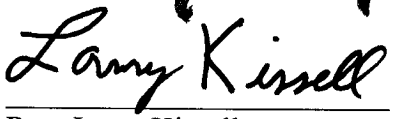
Rep. Roy Blunt


Rep. Don Young


Rep. Candice S. Miller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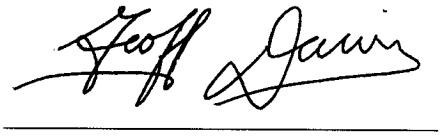
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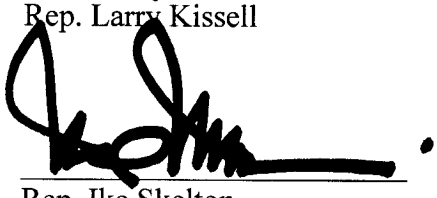
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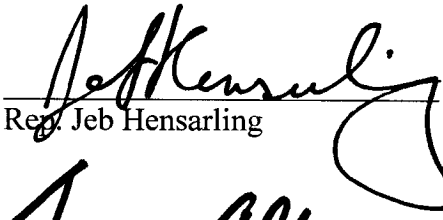
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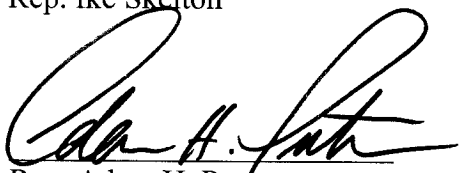
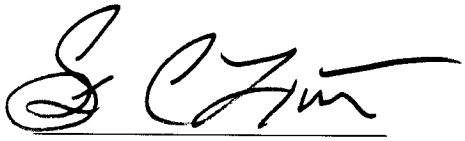

Rep. Adam H. Putnam


Rep. Jason Altmire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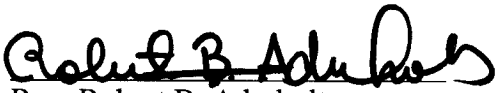
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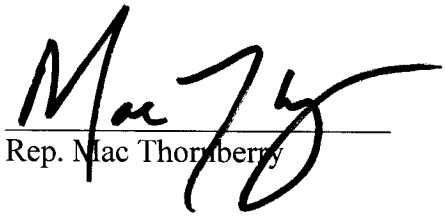
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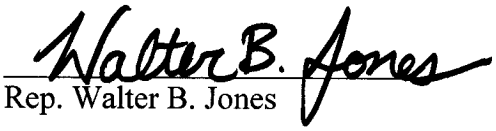
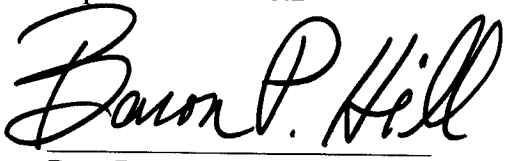

Rep. Walter B. Jones

Rep. Jason Chaffetz

Rep. Ken Calvert



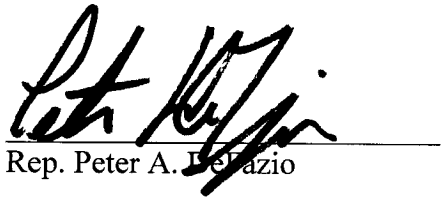
Rep. Baron P. Hill

Rep. Mike McIntyre

Rep. Robert J. Wittman

Rep. Spencer Bachus

Rep. Michele Bachmann



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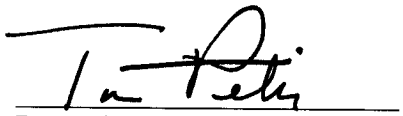

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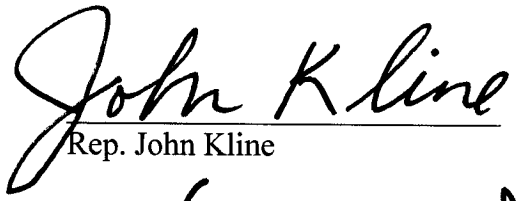

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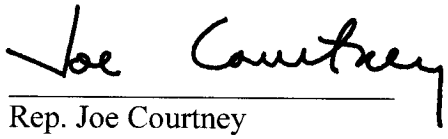
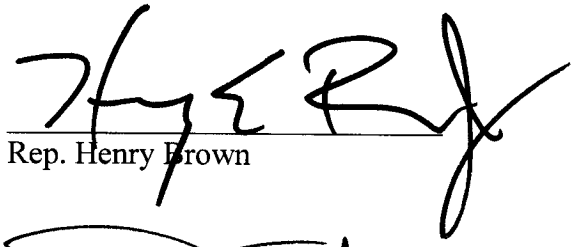
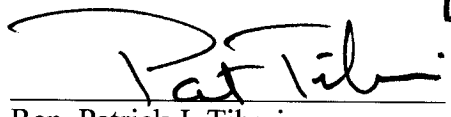


Rep. Joe Courtney



Rep. Henry Brown

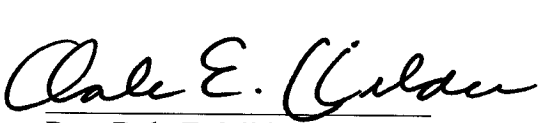
Rep. Paul C. Broun, M.D.



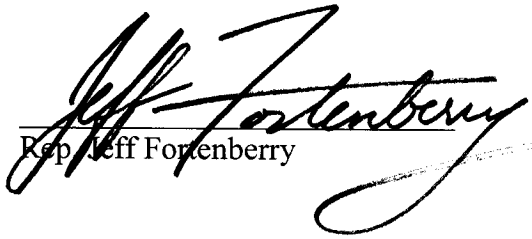
Rep. Patrick J. Tiberi

Rep. David P. Roe

Rep. Barney Frank



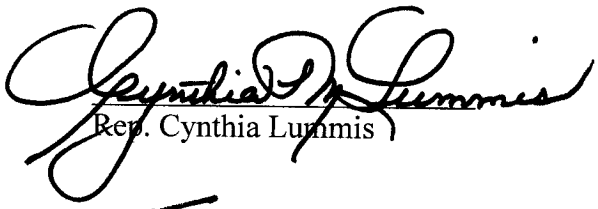
Rep. Dale E. Kildee



Rep. Jeff Fortenberry

Rep. Lynn Jenkins

Rep. K. Michael Conaway



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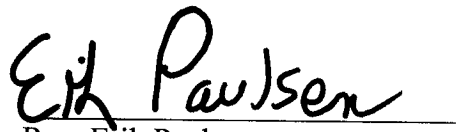

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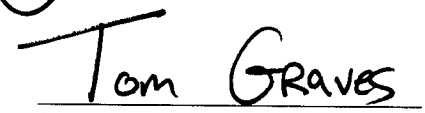
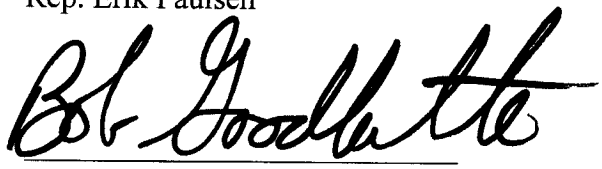


Rep. Tom Graves



Rep. Bob Goodlatte

Rep. Mike Coffman

Rep. Ron Kind

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 1 2 2010

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, DC 20515-3512

Dear Congressman Tiberi:

Thank you for your letter of October 1, 2010, to the U.S. Environmental Protection Agency's (EPA's) Administrator, Lisa Jackson, regarding an August 3, 2010, petition the Agency has received from the American Bird Conservancy and a number of other groups requesting that the EPA take action under the Toxic Substances Control Act (TSCA) to prohibit the manufacture, processing, and distribution in commerce of lead shot, bullets, and fishing sinkers. EPA denied the portion of the petition related to lead in ammunition on August 27, 2010, because the Agency does not have the legal authority to regulate this type of product under TSCA.

On behalf of the Administrator, I am writing to inform you that we have completed our review of the remaining portion of the petition and have determined that the petitioners did not demonstrate that the request for a uniform national ban of lead in fishing gear is necessary to protect against an unreasonable risk of injury to health or the environment, as required by TSCA section 21. EPA also determined that the petition did not demonstrate that the action requested is the least burdensome alternative to adequately protect against the concerns, as required by section 6 of TSCA. For these reasons, EPA denied the petitioners' request for a national ban on lead in all fishing gear.

EPA believes that the petition does not provide a sufficient justification for why a national ban of lead fishing sinkers and other lead fishing tackle is necessary given the actions being taken to address the concerns identified in the petition. There are an increasing number of limitations on the use of lead fishing gear on some Federal lands, as well as Federal outreach efforts. A number of states have established regulations that ban or restrict the use of lead sinkers and have created state education and fishing tackle exchange programs over the last decade. The emergence of these programs and activities over the past decade calls into question whether the broad rulemaking requested in the petition would be the least burdensome, adequately protective approach, as required by TSCA. We also noted to the petitioners that the prevalence of non-lead alternatives in the marketplace continues to increase.

Again, thank you for your letter and I hope the information on EPA's response to this petition is helpful to you. If you have additional questions, please feel free to contact me or your staff may contact Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

Stephen A. Owens
Assistant Administrator

Congress of the United States
Washington, DC 20515

November 17, 2010

The Honorable Lisa Jackson
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

Dear Administrator Jackson:

We write to you today to express our concern regarding the Environmental Protection Agency's (EPA) reconsideration of the 2008 National Ambient Air Quality Standards (NAAQS) for ground-level ozone. This action departs from the normal five-year NAAQS review schedule established by the Clean Air Act. We strongly support protecting the environment and ensuring the health of our constituents, but we have serious concerns that EPA's departure from regular order in relation to an Ozone NAAQS review will have a significant negative impact on the economies of our states without enhancing air quality. We are concerned proposals to lower the recently revised NAAQS will hurt working families and greatly increase operating costs for manufacturers during this time of serious economic difficulty.

As you know, the Clean Air Act requires that EPA conduct a detailed review of each NAAQS every five years. This review, with extensive process, public input and comment, was last completed for the ozone standard in 2008. Some groups argued for a significant tightening of the standard and others, including respected members of the scientific community, believed that the existing ozone standard was adequately protective. In the end, EPA strengthened its existing 0.084 ppm standard to a much more stringent 0.075 ppm, declared that level adequately protective of human health and the environment, and commenced preparations for the next five year review.

When EPA changed the ozone standard in 2008, many of our states were still coming into attainment of the old .084 ppm standard, and suffered significant economic and growth restrictions under the required state implementation plan (SIP). States must again revise their SIPs to meet EPA's more stringent 0.075 ppm standard, with even more adverse economic impacts.

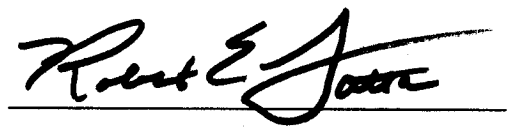
This year, despite being midway through the ongoing five year NAAQS review process, EPA has proposed to bypass the transparency and technical input afforded by that statutory process and apply a more aggressive and costly ozone mandate. Moreover, it does not appear that EPA is relying on any new scientific evidence in its decision, but is simply using the same data from 2008 to now reach a different conclusion.

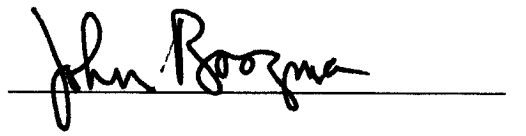
Areas that will not be able to meet EPA's proposed new NAAQS will face increased costs to businesses, restrictions on development and expansion, and limits on transportation funding. EPA's new proposed standard could nearly triple the number of nonattainment areas and, under the high end of EPA's own estimate, add $90 billion dollars per year to already high operating costs faced by manufacturers, agriculture, and other sectors.

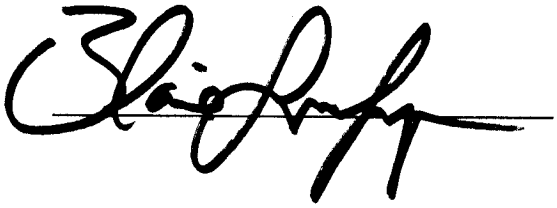
In addition, recent studies indicate that each affected state could lose tens of thousands of jobs, if not more. If our local businesses can't compete, our constituents will lose their jobs, their health care and other employee benefits for their families. Our communities will also lose local tax revenue critical to funding public education and municipal infrastructure.

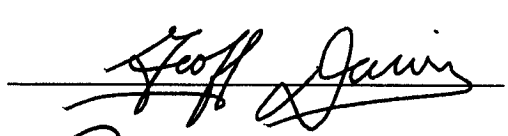
We believe that we can and should continue to improve our environment, but we are concerned that EPA's action has real, detrimental impacts on the people they are trying to protect. Given the heavy job loss potential this policy could result in and the absence of any new scientific data, we strongly believe changing the current NAAQS standard outside of the ongoing five year review process is unnecessary.

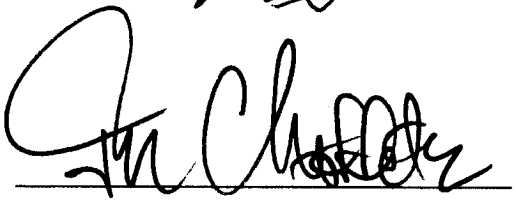
Sincerely,

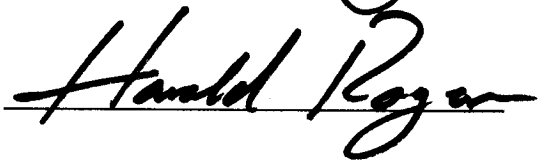


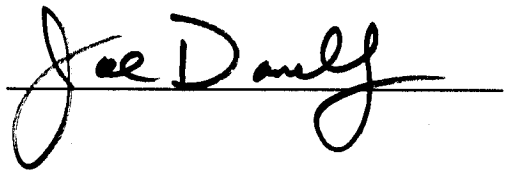


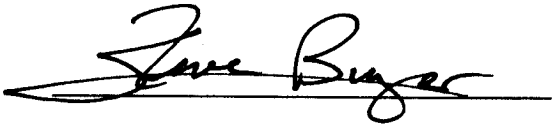


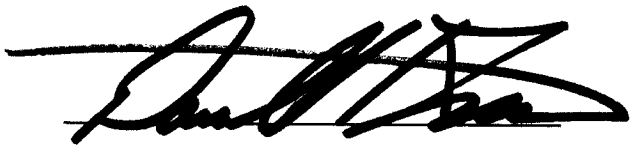












Bill Cassidy

List of Signatures

1. Mike Ross
2. Rick Boucher
3. Ike Skelton
4. Gene Green
5. Charlie Wilson
6. Jim Matheson
7. Sue Myrick
8. Zack Space
9. Paul Broun
10. John Carter
11. Joseph Pitts
12. John Sullivan
13. Marsha Blackburn
14. Todd Akin
15. Lynn Jenkins
16. Steve King
17. Peter Viscolosky
18. Sheila Jackson-Lee
19. Jerry Moran
20. Glenn Thompson
21. Roy Blunt
22. Dan Boren
23. Patrick Tiberi
24. Wally Herger
25. Rob Bishop
26. John Barrow
27. Charles Gonzalez
28. John Salazar
29. John Shadegg
30. Peter Roskam
31. Brett Guthrie
32. Michele Bachmann
33. Robert Latta
34. John Culberson
35. John Boozman
36. Sam Graves
37. Sam Johnson
38. John Kline
39. Charles Boustany
40. Blaine Luetkemeyer

41. Geoff Davis
42. John Flemming
43. Jason Chaffetz
44. Harold Rogers
45. Pete Sessions
46. Steve Scalise
47. Joe Donnelly
48. Steve Buyer
49. Darrell Issa
50. Cliff Stearns
51. Bill Cassidy

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 2 1 2010

OFFICE OF
AIR AND RADIATION

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Tiberi:

Thank you for the letter that you sent to Administrator Lisa Jackson on November 17, 2010, about the U.S. Environmental Protection Agency's (EPA's) reconsideration of the 2008 National Ambient Air Quality Standard (NAAQS) for ground-level ozone. The Administrator has asked me to respond on her behalf.

In your letter, you expressed concern over the Agency's decision to reconsider the 2008 standard, the Agency's reliance on the 2008 scientific record as the basis for the reconsideration, and the potential economic consequences of adopting a more stringent standard. I would like to respond to each of those concerns.

Administrator Jackson decided to reconsider the 2008 standard of 0.075 ppm, because it was significantly less protective of public health than even the least protective end of the 0.060-0.070 ppm band that the Congressionally-established Clean Air Science Advisory Committee (CASAC) had recommended. The difference in public health impact – up to 12,000 premature deaths, 58,000 cases of aggravated asthma, and up to $100 billion dollars in health costs – is by no means trivial.

The reconsideration rests on the more than 1,700 scientific studies in the record as of 2008. EPA's Office of Research and Development has conducted a provisional assessment of relevant studies completed since 2008, and has found that they do not materially change the conclusions of the 2008 assessment.

Under the Clean Air Act, decisions regarding the NAAQS must be based solely on an evaluation of the health and environmental effects evidence. EPA is prohibited from considering costs or ease of implementation in setting or revising the NAAQS. However, we can and do consider costs during the implementation process, and we will work with states and local areas to help identify cost-effective implementation solutions to meet any revised standards.

As part of EPA's extensive review of the science, Administrator Jackson will ask CASAC for further interpretation of the epidemiological and clinical studies they used to make their recommendation. Also, to ensure EPA's decision is grounded in the best science, EPA will review the input from CASAC before the new standard is selected. Given this ongoing scientific

review, EPA intends to set a final standard in the range recommended by the CASAC by the end of July, 2011. Furthermore, EPA is moving forward with a number of other national rules that will significantly reduce pollution and improve public health for all Americans - rules designed to reduce harmful emissions from cars, power plants and other industrial facilities that contribute to ozone formation.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Cheryl Mackay, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-2023.

Sincerely,

Gina McCarthy
Assistant Administrator

Congress of the United States
Washington, DC 20515

December 8, 2010

Lisa Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Ray LaHood, Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Administrator Jackson and Secretary LaHood:

We are writing regarding the Environmental Protection Agency's and the Department of Transportation's proposed redesign of fuel economy labels, as required by the Energy Independence and Security Act (EISA) of 2007.

As you know, the Energy Independence and Security Act of 2007 (EISA) mandated that the DOT issue a rulemaking implementing this law. On September 23, both EPA and DOT issued a notice of proposed rulemaking.

The proposed rule presents two primary label options. Label 1 minimizes miles per gallon (mpg), an objective measure of the fuel economy performance of a vehicle, in favor of a prominently displayed subjective "letter grade". In contrast, Label 2 focuses on the mpg metric and implements the other information Congress required under EISA. Consumers are very familiar with the mpg metric and rely on it when purchasing a new motor vehicle.

Additionally, unlike the mpg metric, the proposed grading system is biased in favor of certain types of vehicles. The "A" and "A+" categories are reserved for a very narrow range of vehicles, i.e., battery electric vehicles and plug-in hybrids. However, a fuel efficient, clean diesel vehicle would be penalized with a low or mediocre grade. Similarly, most fuel efficient SUVs and pickup trucks would rate no higher than a "C+".

We hope you will agree that it is essential for consumers to have clear and concise information about the fuel economy performance of their vehicle. However, Label 1 marginalizes the most important piece of information on the fuel economy sticker, namely the fuel economy of the vehicle. Moreover, Label 1 unfairly promotes certain vehicles over others.

We believe that Label 2 better serves the needs of the consumer by continuing to prominently display the mpg of the vehicle, and is consistent with the statutory intent of EISA. Although the deadline for public comment has passed, we appreciate your agencies allowing us to submit this letter for the public record.

Sincerely,

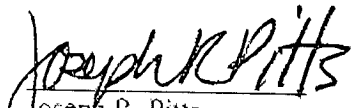
Dale E. Kildee
Member of Congress

Steve LaTourette
Member of Congress

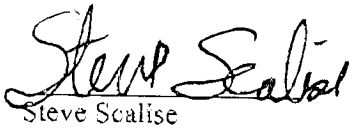
Greg Walden
Member of Congress

André Carson
Member of Congress

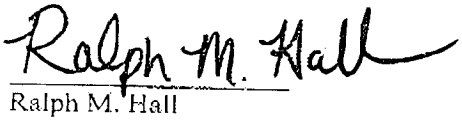
Bennie G. Thompson
Member of Congress



Joseph R. Pitts
Member of Congress



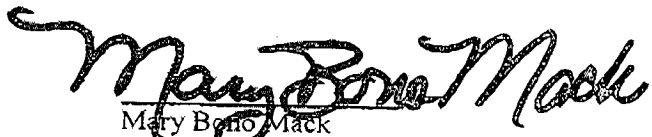
Steve Scalise
Member of Congress



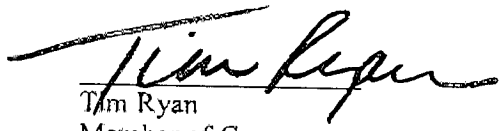
Ralph M. Hall
Member of Congress

Lamar Smith
Member of Congress

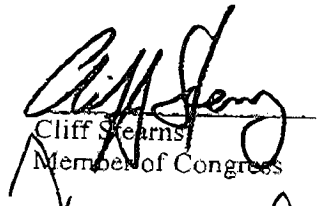
Dan Burton
Member of Congress



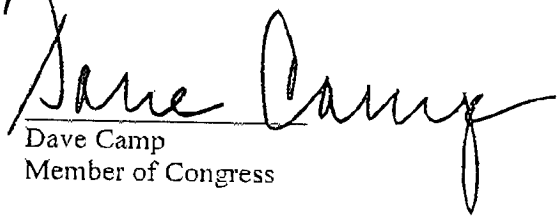
Mary Bono Mack
Member of Congress



Tim Ryan
Member of Congress

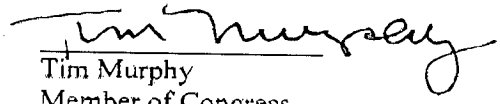


Cliff Stearns
Member of Congress

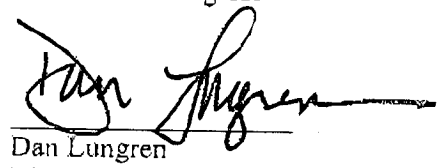


Dave Camp
Member of Congress

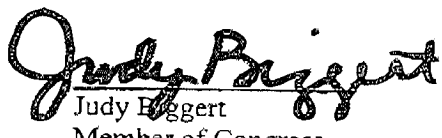
Bob Latta
Member of Congress



Tim Murphy
Member of Congress

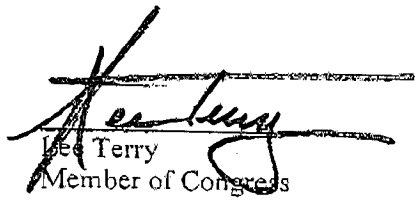


Dan Lungren
Member of Congress

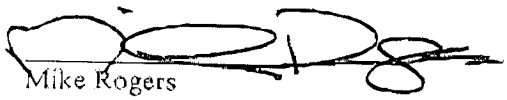


Judy Biggert
Member of Congress

Geoff Davis
Member of Congress

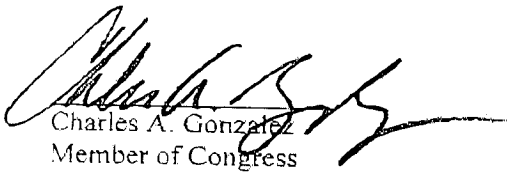


Lee Terry
Member of Congress

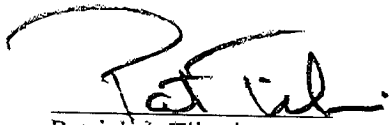


Mike Rogers
Member of Congress

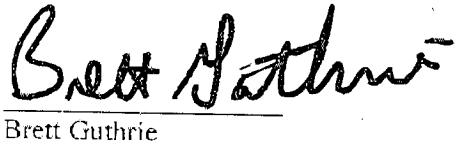
Candice S. Miller
Member of Congress



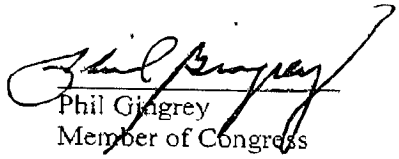
Charles A. Gonzalez
Member of Congress



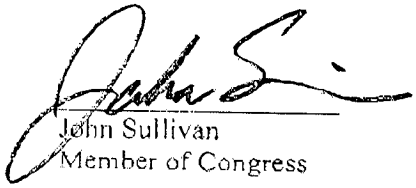
Patrick J. Tiberi
Member of Congress



Brett Guthrie
Member of Congress

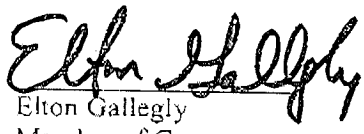


Phil Gingrey
Member of Congress

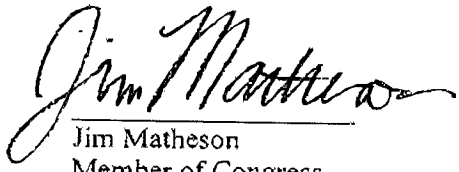


John Sullivan
Member of Congress

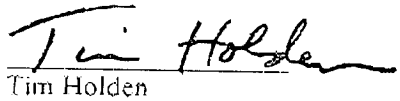
Scott Garrett
Member of Congress



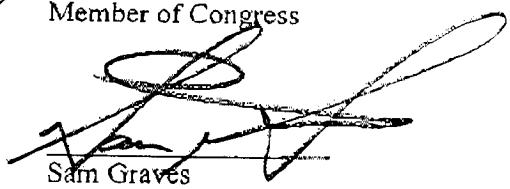
Elton Gallegly
Member of Congress



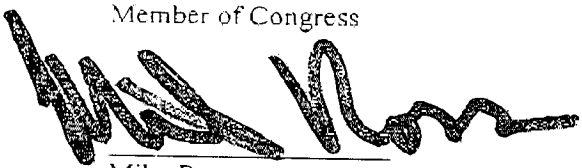
Jim Matheson
Member of Congress



Tim Holden
Member of Congress

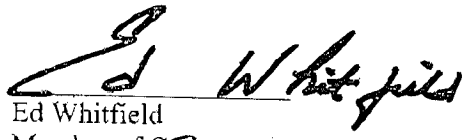


Sam Graves
Member of Congress

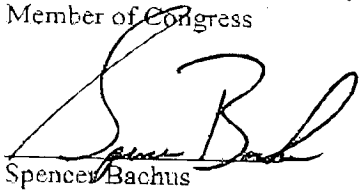


Mike Ross
Member of Congress

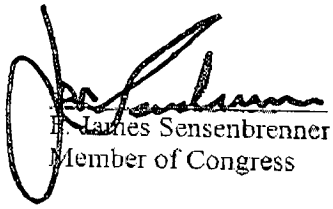
Robert Aderholt
Member of Congress



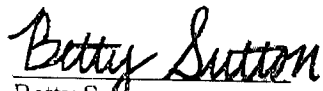
Ed Whitfield
Member of Congress



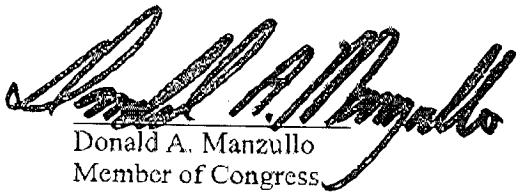
Spencer Bachus
Member of Congress



F. James Sensenbrenner
Member of Congress



Betty Sutton
Member of Congress

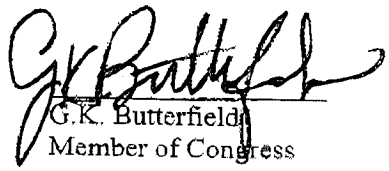


Donald A. Manzullo
Member of Congress

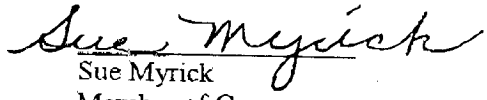
Todd Akin
Member of Congress

Thaddeus McCotter
Member of Congress

Sander Levin
Member of Congress

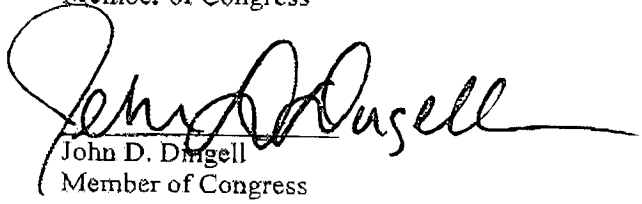


G.K. Butterfield
Member of Congress

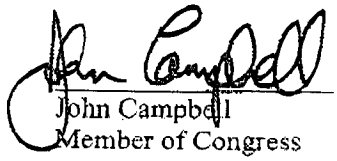


Sue Myrick
Member of Congress

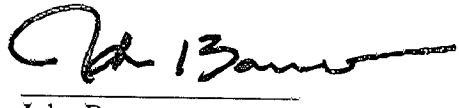
Gary Peters
Member of Congress



John D. Dingell
Member of Congress

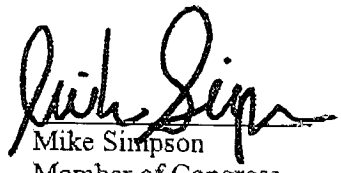


John Campbell
Member of Congress



John Barrow
Member of Congress

Marsha Blackburn
Member of Congress



Mike Simpson
Member of Congress

Dave Loebsack
Member of Congress

Mark Schauer
Member of Congress

Bruce Braley
Member of Congress

FAX SHEET

CONGRESSMAN DALE E. KILDEE
2107 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(202) 225-3611 PHONE
(202) 225-6393 FAX

DATE:___December 8, 2010_____

TO:__Office of Congressional and Intergovernmental Relations

FROM:

_____ DEK	_____ Peter Karafotas
_____ Lindsey Beck	_____ Evita Mendiola
_____ Callie Coffman	_____ Paxton Myers
_____ Erin Donar	_____ David Ruble
_X_ Josh Dover	_____ Erin Ward
_____ Other	

Number of pages, including this page _6_

Comments: ***Letter to Administrator Jackson from Congressional offices regarding proposed redesign of fuel economy labels. Please contact me if you have any additional questions.***

If you have problems with this transmission, please call (202) 225-3611.

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, DC 20515

JAN 21 2011

Dear Congressman Tiberi:

Thank you for your letter, cosigned by your congressional colleagues, which provides the U.S. Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA) with comments on the proposed Fuel Economy Label rulemaking. We value your interest in this proposal and have submitted your letter to the rulemaking docket.

We appreciate the concerns you raise regarding the approach to displaying fuel economy and environmental information on the redesigned fuel economy labels. Both EPA and NHTSA are committed to ensuring that the redesigned labels, required under the Energy Independence and Security Act of 2007, provide consumers with the necessary information about the fuel economy, consumption, cost, and environmental impact associated with purchasing new vehicles that will allow consumers to make informed vehicle purchasing decisions. Since the proposal includes adding important new elements to the existing labels, as well as creating new labels for advanced technology vehicles, EPA and NHTSA embarked on a comprehensive research program beginning in the fall of 2009. In addition, the Agencies met with numerous stakeholders and experts to solicit a broad spectrum of views and insights as to how the labels might be revised.

The EPA and NHTSA are committed to broad public participation in the rulemaking. Given the importance of, and public interest in, the proposed new fuel economy labels, we have held two public hearings—in Chicago on October 14, 2010, and in Los Angeles on October 21, 2010, respectively. In addition, we received substantial comments from both private citizens and a broad range of stakeholders that reflect a wide variety of viewpoints. All comments we receive will be carefully considered when finalizing this rulemaking.

A similar response has been sent to each cosigner of your letter. If you have further questions, please contact us. Your staff also may call David McIntosh, Associate Administrator for EPA Congressional and Intergovernmental Relations, at 202-564-0539, or Mr. Ronald L. Medford, NHTSA Deputy Administrator, at 202-366-9700.

Sincerely yours,

Ray LaHood
Secretary
U.S. Department of Transportation

Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency

Congress of the United States
Washington, DC 20515

December 8, 2010

The Honorable Lisa Jackson
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania, Ave., NW
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our concerns over EPA's draft Pesticide Registration Notice *2010-X: False or Misleading Pesticide Product Brand Names.* Issued by EPA on May, 19, the proposal would require registrants of pesticide products to change or qualify previously reviewed and approved trademarked brand names if they contain words that EPA now considers to be misleading such as "pro" or "green".

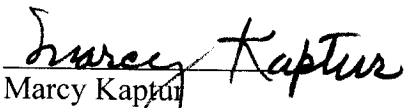
While we do not disagree that consumers should be protected from "false and misleading brand names," EPA does not have the authority to attempt to influence consumer choice among pesticide products. In fact, several other mechanisms exist to provide protection to consumers (e.g., The Federal Trade Commission, US Patent and Trademark Office, State Attorneys General and private lawsuits). Furthermore, we do not believe that the mechanism by which EPA is engaging in this undertaking is appropriate. The intent of PR Notices is to provide clarification and guidance on EPA's interpretation of a regulation. This action is an amendment to the regulations which must be undertaken through formal rulemaking or violate FIFRA and the Administrative Procedures Act.

Companies have invested millions in marketing and advertising to develop customers' trust and loyalty and to protect their property right in their brand. If customers' preferred products cannot be found on store shelves, it will lead to confusion in the marketplace and hurt local hardware stores and lawn and garden centers that carry these products.

We are also concerned that EPA appears to be implementing this draft policy during routine efforts to update current registrations with existing products on the market, despite the fact that EPA has not yet had time to evaluate public comments.

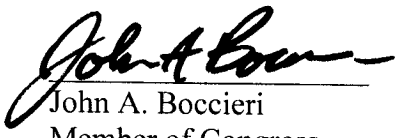
Finally, we question that there is evidence that 2010-X would provide additional protection for human health, the environment or consumers. In a time when this important agency has many pressing issues to address and a limited amount of resources to achieve those goals, there are many other issues that warrant attention. EPA's proposal would lead to customer confusion and hurt manufacturers and businesses that sell these products. Without effectively making the case for regulation, we ask that EPA reevaluate this draft notice and address the serious concerns of the established manufacturers.

Sincerely,

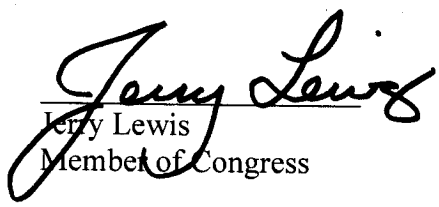


Marcy Kaptur
Member of Congress

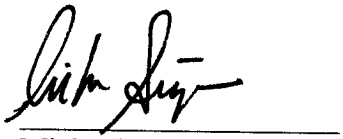
Steven C. LaTourette
Member of Congress



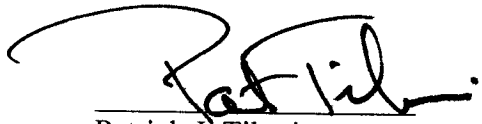
John A. Boccieri
Member of Congress



Jerry Lewis
Member of Congress



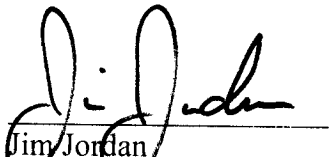
Michael K. Simpson
Member of Congress



Patrick J. Tiberi
Member of Congress

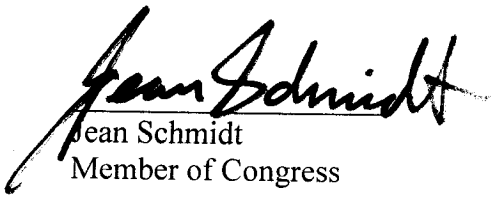
Ken Calvert
Member of Congress

Robert E. Latta
Member of Congress



Jim Jordan
Member of Congress

Tom Cole
Member of Congress



Jean Schmidt
Member of Congress

Steve Austria
Member of Congress

Cc: Steve Owens,
Assistant Administrator for Chemical Safety and Pollution Prevention

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 31 2011

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of December 8, 2010, to U.S. Environmental Protection Agency (EPA) Administrator Lisa Jackson expressing your concerns about EPA's draft Pesticide Registration (PR) Notice 2010-X: False or Misleading Pesticide Product Brand Names. Administrator Jackson asked me to respond on behalf of the Agency since my office is responsible for the regulation of pesticides.

First, as background, EPA issued this draft notice to invite public comment on a proposal intended to provide clarifying guidance to registrants to help them avoid or take corrective action on false or misleading pesticide product brand names. Use of false or misleading terms may result in risks to consumers or the environment if product users are misled to believe that they do not need to follow label safety precautions or use directions.

Your letter raises the question of EPA's authority in this area. EPA has clear authority over pesticide labeling and a mandate to prohibit false or misleading claims on pesticide labeling. Specifically, section 2(q)(1)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) states that a pesticide is misbranded if "its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular." Pursuant to section 12(a)(1)(E) of FIFRA, it is unlawful to sell or distribute a misbranded pesticide. Further, section 3(c)(5)(B) of FIFRA requires EPA to determine that pesticide labeling meets the requirements of FIFRA, including that it not be false or misleading.

EPA has several regulations that implement these authorities. 40 CFR §156.10(a)(5) states that a pesticide or device "is misbranded if its labeling is false or misleading in any particular including both pesticidal and non-pesticidal claims." Subsections (i) through (x) of this regulation specify categories and some examples of false or misleading claims. 40 CFR §156.10(b)(2)(ii) specifies that product brand names cannot be false or misleading.

Your letter states that this action constitutes a regulation amendment. As noted above, the regulations concerning this issue specifically indicate that brand names cannot be false or misleading and establish the broad and clear principle consistent with the statutory mandate. However, regulations need not specify every potential situation that may arise. Rather, those are dealt with by applying the law and regulations on a case-by-case basis. This PR Notice is not an amendment to the regulations. PR Notices are a longstanding mechanism that EPA uses to help registrants comply with the regulations by providing clarifying but interpretive guidance. Since EPA believes it is important to receive public input on this type of guidance, we proposed it for public comment. However, this type of program guidance does not require formal rulemaking.

We are sensitive to the significant investment that some registrants make in developing and protecting their brand names. However, EPA believes that only a very small number of products will be affected by the final PR Notice. In addition, there are approaches available that could provide options for qualifying or disclaiming potentially false or misleading product brand names. Therefore, EPA believes that very few registrants, if any, would actually need to change their product brand names and that no significant adverse impacts should occur in the marketplace.

We appreciate your concern about implementing the guidance in the PR Notice before it has been finalized. EPA has not requested any changes in product names based solely on the draft PR Notice. Instead, the Agency continues to implement its existing regulatory authorities discussed above to prevent false or misleading pesticide product brand names.

Your letter questions whether this action would provide additional protection for human health and the environment and asserts that it could create consumer confusion. Most pesticides are inherently toxic in order to carry out their intended purpose and must be used in accordance with the label to prevent unreasonable adverse effects to humans or the environment. Products bearing false or misleading terms, whether in the product name or elsewhere on the label, can present risks to users. Recent Federal Trade Commission (FTC) consumer perception surveys indicate broad environmental labeling claims such as "green" and "eco-friendly" imply to many consumers that a product may have no negative environmental impacts, which in the case of pesticides is generally not true. Thus, the FTC study supports EPA's position.

You request that we reevaluate the draft notice and address manufacturers' concerns. Public protection is a priority concern for EPA. Therefore, the Agency is giving careful consideration to all of the public comments received. In determining our final action, EPA hopes to continue to strike the appropriate balance between allowing manufacturers flexibility in the marketplace and applying the statutory requirements to ensure public health and environmental protection.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

Stephen A. Owens
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC - 8 2011

OFFICE OF WATER

The Honorable Patrick J. Tiberi
House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your September 16, 2011, letter to the Environmental Protection Agency's (EPA) Administrator Lisa P. Jackson, regarding Ohio's application to transfer the authority for the administration of the Ohio National Pollutant Discharge Elimination System (NPDES) program for concentrated animal feeding operations (CAFOs) from the Ohio Environmental Protection Agency (Ohio EPA) to the Ohio Department of Agriculture (ODA). In that letter you asked the EPA to promptly approve ODA's application to transfer authority.

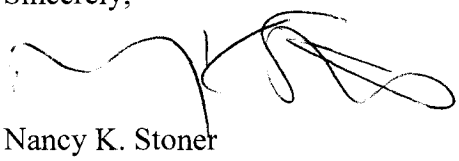
I want to assure you that the EPA is committed to making a final determination on the application as quickly as practicable. The EPA's primary interest throughout the review process has been to ensure that there continues to be an effective NPDES program for CAFOs in Ohio, regardless of which state agency is the NPDES authority. In order for ODA's application to be approved, ODA must have the authority and the necessary implementation procedures in place to regulate CAFOs as required by the Clean Water Act (CWA) and by the NPDES regulations.

The NPDES regulations at 40 CFR §123.62 set forth the requirements for the revision of state programs, including the transfer of all or part of the NPDES program from the approved state agency to another state agency. Section 123.62(e) requires that all state programs must revise their approved programs to conform to any new federal NPDES regulations. Since the EPA promulgated revised CAFO regulations in 2008, in accordance with §123.62(e), ODA must include requirements in its proposed program that would conform to these federal revisions. A copy of these regulations is enclosed.

Since ODA's submission of its official request for authorization, the EPA and ODA have worked together to resolve outstanding issues and have reached an agreement regarding the final steps for ODA to obtain authorization for the NPDES program. To that end, the agreed upon steps to complete an approvable application for program authorization are outlined in the January 5, 2011 letter from ODA, copy enclosed. We continue to be in regular contact with ODA regarding their progress in complying with the agreed upon list. Several of the remaining items require action by the General Assembly or by the Attorney General.

Please be assured that we will continue to work with the ODA and, upon receipt of a complete application for transfer of the NPDES program authorization, will act in a timely manner. If you have further questions, please contact me or your staff may call Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0255.

Sincerely,



Nancy K. Stoner
Acting Assistant Administrator

Enclosures

Congress of the United States
Washington, DC 20515

April 14, 2011

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army
for Civil Works
108 Army Pentagon
Room 3E446
Washington, DC 20310-0108

Dear Administrator Jackson and Assistant Secretary Darcy:

In December 2010, the Environmental Protection Agency and Corps of Engineers (collectively, the "Agencies") sent draft "Clean Water Protection Guidance" to the Office of Management and Budget for regulatory review. The intent of the document is to describe how the Agencies will identify waters subject to jurisdiction under the Federal Water Pollution Control Act of 1972 (more commonly known as the "Clean Water Act") and implement the U.S. Supreme Court's decisions in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (*SWANCC*) and *United States v. Rapanos* (*Rapanos*) concerning the extent of waters covered by the Act. Further, this document would supersede guidance that the Agencies previously issued in 2003 and 2008 on determining the scope of "waters of the United States" subject to Clean Water Act programs.

In our view, this "Guidance" goes beyond clarifying the scope of "waters of the United States" subject to Clean Water Act programs. Rather, it is aimed, as even the Agencies acknowledge, at "increas[ing] significantly" the scope of the Clean Water Act's jurisdiction over more waters and more provisions of the Clean Water Act as compared to practices under the currently applicable 2003 and 2008 guidance. ("Guidance," at 1.)

It appears that the Agencies intend to expand the applicability of this "Guidance" beyond section 404 to all other Clean Water Act provisions that use the term "waters of the United States," including sections 402, 401, 311, and 303. Moreover, the Agencies intend to "alleviate the need to develop extensive administrative records for certain jurisdictional determinations" ("Guidance," at 1), thereby shifting the burden of proving the jurisdictional status of a "water" from the Agencies to the regulated community, and thus making the provisions of this "Guidance" binding on the regulated community.

In light of the substantive changes in policy that the Administration is considering with this "Guidance," we are extremely concerned that this "Guidance" amounts to a *de facto* rule instead of mere advisory guidelines. Additionally, we fear that this "Guidance" is an attempt to

short-circuit the process for changing agency policy and the scope of Clean Water Act jurisdiction without following the proper, transparent rulemaking process that is dictated by the Administrative Procedure Act.

This "Guidance" would substantively change the Agencies' policy on waters subject to jurisdiction under the Clean Water Act; undermine the regulated community's rights and obligations under the Clean Water Act; and erode the Federal-State partnership that has long existed between the States and the Federal Government in implementing the Clean Water Act. By developing this "Guidance," the Agencies have ignored calls from state agencies and environmental groups, among others, to proceed through the normal rulemaking procedures, and have avoided consulting with the States, which are the Agencies' partners in implementing the Clean Water Act.

The Agencies cannot, through guidance, change the scope and meaning of the Clean Water Act or the statute's implementing regulations. If the Administration seeks statutory changes to the Clean Water Act, a proposal must be submitted to Congress for legislative action. If the Administration seeks to make regulatory changes, a notice and comment rulemaking is required.

We are very concerned by the action contemplated by the Agencies, and we strongly urge you to reconsider the proposed "Guidance."

Thank you for your attention to this matter.

Sincerely,

Bob Gibbs
Member of Congress

Tim Holden
Member of Congress

John Mica
Member of Congress

Nick Rahall
Member of Congress

Sanford Bishop
Member of Congress

David McKinley
Member of Congress

Mac Thornberry
Member of Congress

Walter Jones
Member of Congress

Jeff Landry
Member of Congress

John Carter
Member of Congress

Pete Olson
Member of Congress

Wally Herger
Member of Congress

Raúl Labrador
Member of Congress

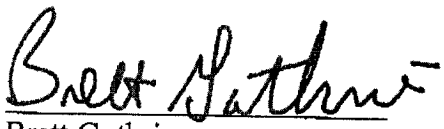
Michael Conaway
Member of Congress

James Lankford
Member of Congress

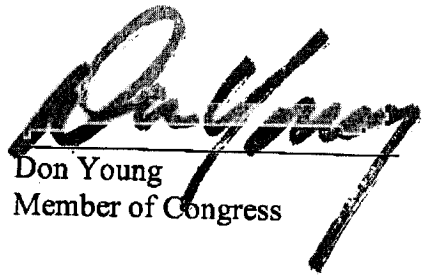
Jeff Flake
Member of Congress

Shelley Moore Capito
Member of Congress

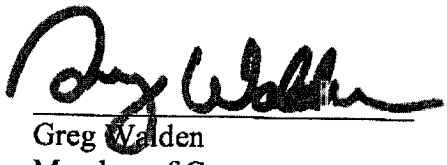
Gary Miller
Member of Congress



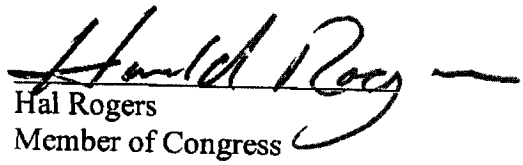
Brett Guthrie
Member of Congress



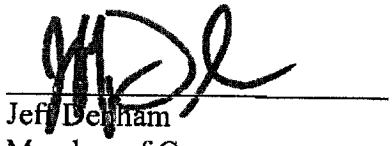
Don Young
Member of Congress



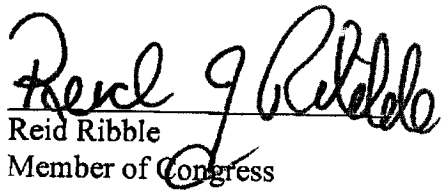
Greg Walden
Member of Congress



Hal Rogers
Member of Congress

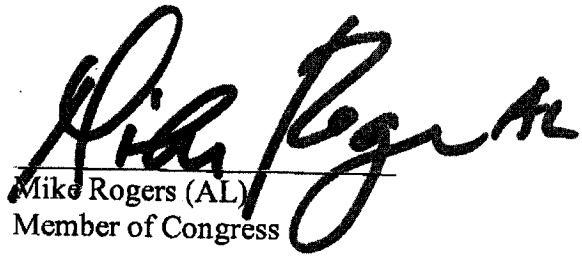


Jeff Denham
Member of Congress

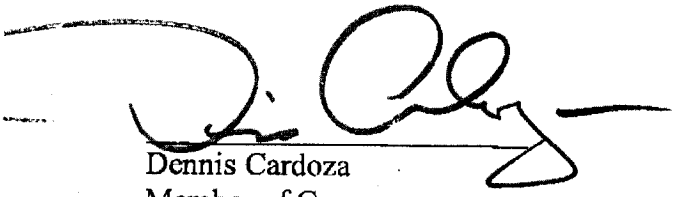


Reid Ribble
Member of Congress

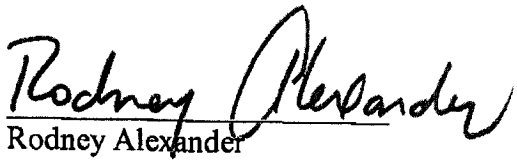
Cathy McMorris Rodgers
Member of Congress



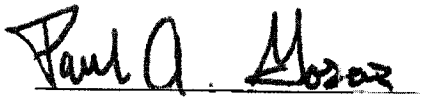
Mike Rogers (AL)
Member of Congress



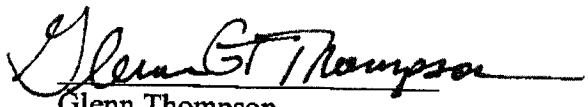
Dennis Cardoza
Member of Congress



Rodney Alexander
Member of Congress



Paul Gosar
Member of Congress



Glenn Thompson
Member of Congress

Steve King
Member of Congress

Francisco Canseco
Member of Congress

Sam Graves
Member of Congress

Bill Shuster
Member of Congress

Tim Murphy
Member of Congress

Chip Cravaack
Member of Congress

Collin Peterson
Member of Congress

Ed Whitfield
Member of Congress

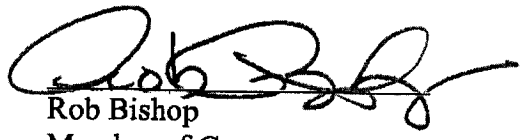
Steve Womack
Member of Congress

Bill Johnson
Member of Congress

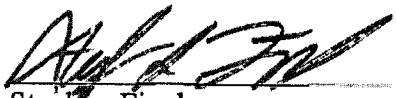
Rick Crawford
Member of Congress

Mike Simpson
Member of Congress

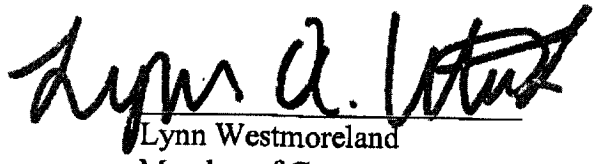
Tom Marino
Member of Congress



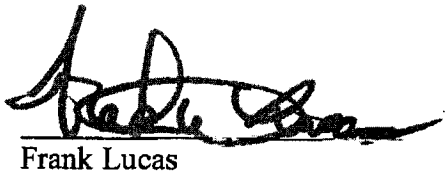
Rob Bishop
Member of Congress



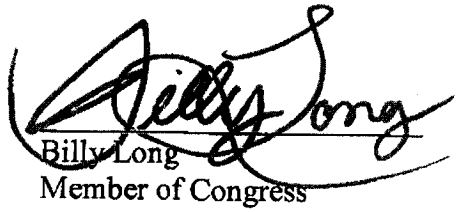
Stephen Fincher
Member of Congress



Lynn Westmoreland
Member of Congress



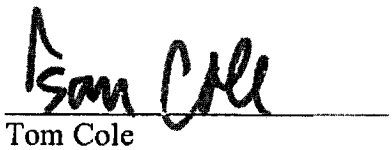
Frank Lucas
Member of Congress



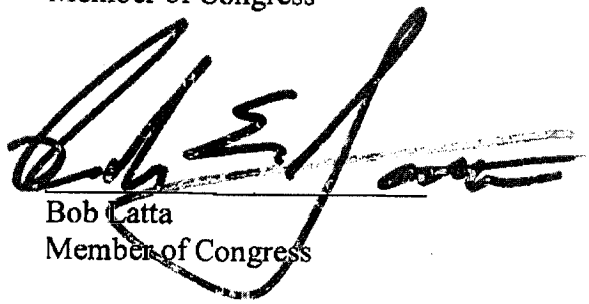
Billy Long
Member of Congress

Adam Kinzinger
Member of Congress

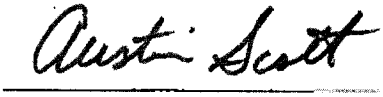
Jaime Herrera Beutler
Member of Congress



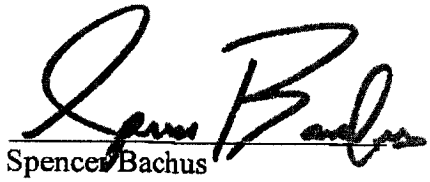
Tom Cole
Member of Congress



Bob Latta
Member of Congress



Austin Scott
Member of Congress



Spencer Bachus
Member of Congress

Blaine Luetkemeyer
Member of Congress

Cory Gardner
Member of Congress

Adrian Smith
Member of Congress

John Shimkus
Member of Congress

Kristi Noem
Member of Congress

Leonard Boswell
Member of Congress

Jim Renacci
Member of Congress

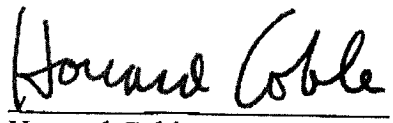
Renee Ellmers
Member of Congress

Kay Granger
Member of Congress

Heath Shuler
Member of Congress

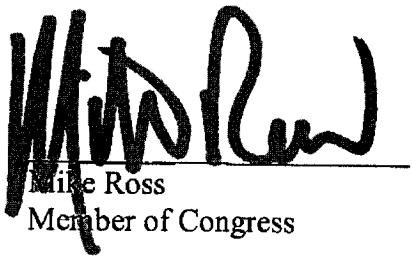
Mike Coffman
Member of Congress

Jean Schmidt
Member of Congress



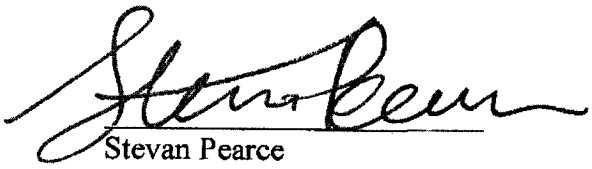
Howard Coble
Member of Congress

Lou Barletta
Member of Congress

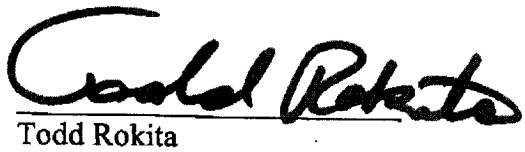


Mike Ross
Member of Congress

John Culberson
Member of Congress

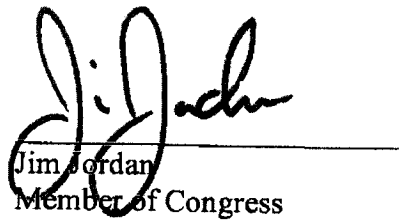


Stevan Pearce
Member of Congress

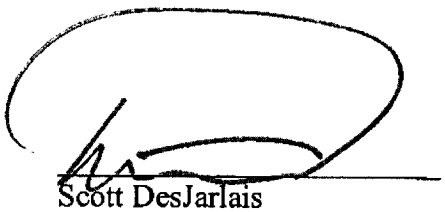


Todd Rokita
Member of Congress

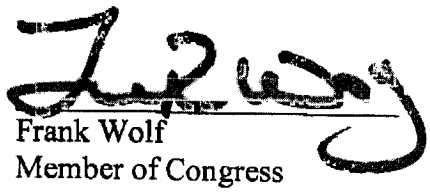
Steve Chabot
Member of Congress



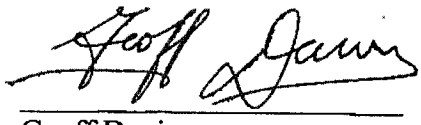
Jim Jordan
Member of Congress



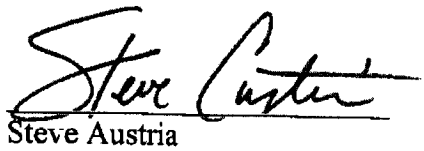
Scott DesJarlais
Member of Congress



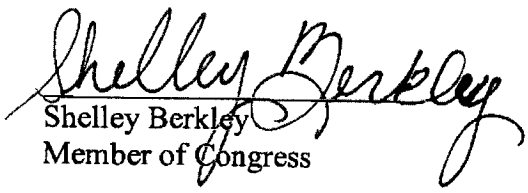
Frank Wolf
Member of Congress



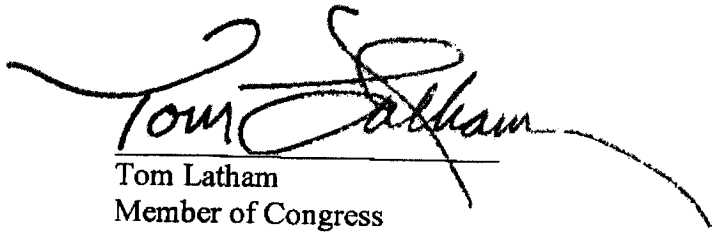
Geoff Davis
Member of Congress



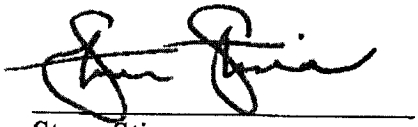
Steve Austria
Member of Congress



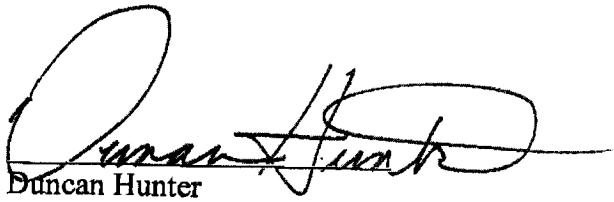
Shelley Berkley
Member of Congress



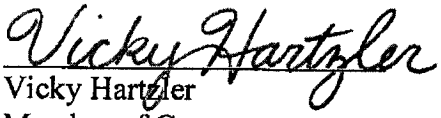
Tom Latham
Member of Congress



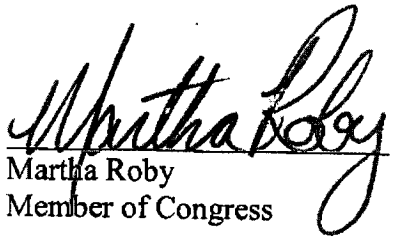
Steve Stivers
Member of Congress



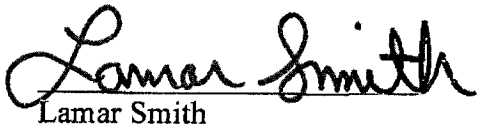
Duncan Hunter
Member of Congress



Vicky Hartzler
Member of Congress



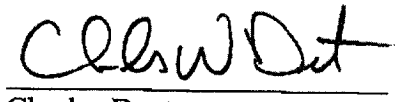
Martha Roby
Member of Congress



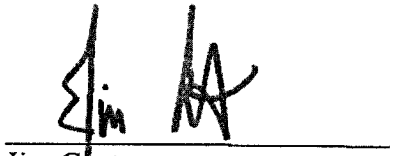
Lamar Smith
Member of Congress

Mo Brooks
Member of Congress

Steve Southerland
Member of Congress



Charles Dent
Member of Congress



Jim Costa
Member of Congress

Terri Sewell
Member of Congress

Tom Rooney
Member of Congress

John Barrow
Member of Congress

Jo Ann Emerson
Member of Congress

Todd Platts
Member of Congress

Charles Boustany
Member of Congress

Roscoe Bartlett
Member of Congress

Robert Aderholt
Member of Congress

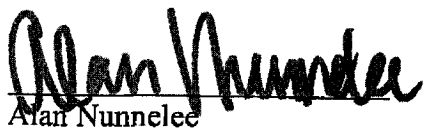
Lynn Jenkins
Member of Congress

Cynthia Lummis
Member of Congress

Pat Tiberi
Member of Congress

Mark Critz
Member of Congress

Lee Terry
Member of Congress

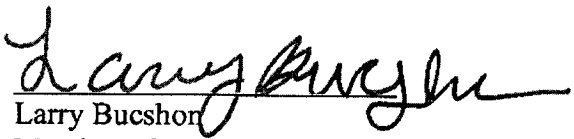


Alan Nunnelee
Member of Congress

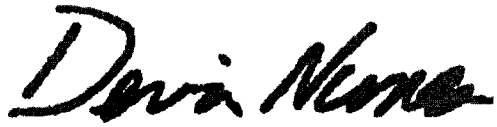
Tim Griffin
Member of Congress

Randy Neugebauer
Member of Congress

Dan Boren
Member of Congress

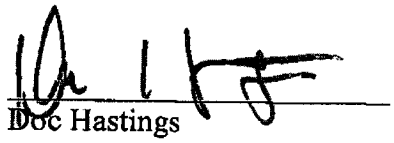


Larry Bucshon
Member of Congress



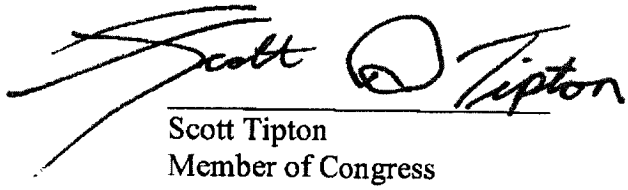
Devin Nunes
Member of Congress

Diane Black
Member of Congress

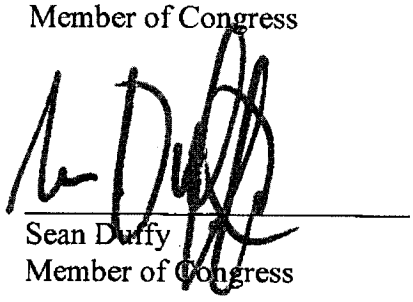


Doc Hastings
Member of Congress

Phil Roe
Member of Congress

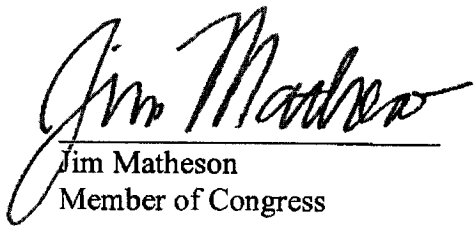


Scott Tipton
Member of Congress



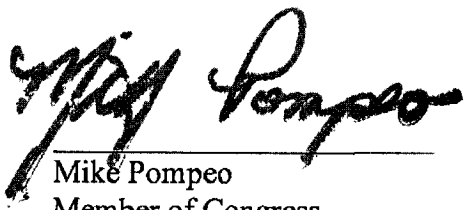
Sean Duffy
Member of Congress

Jason Altmire
Member of Congress

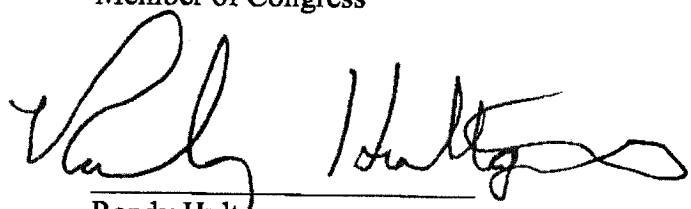


Jim Matheson
Member of Congress

Bobby Schilling
Member of Congress

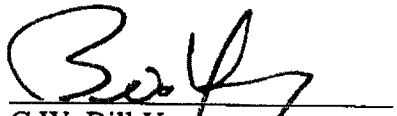


Mike Pompeo
Member of Congress

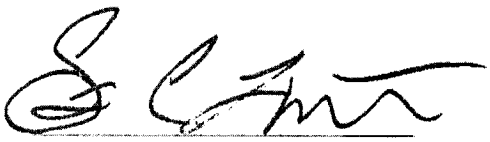


Randy Hultgren
Member of Congress

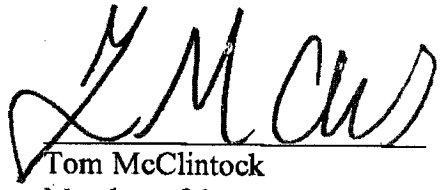
Chuck Fleischmann
Member of Congress



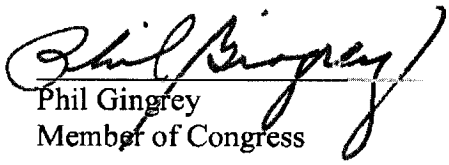
C.W. Bill Young
Member of Congress



Steve LaTourette
Member of Congress

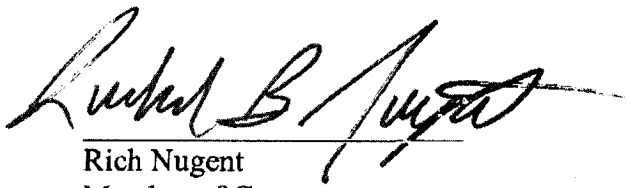


Tom McClintock
Member of Congress



Phil Gingrey
Member of Congress

Ben Chandler
Member of Congress



Rich Nugent
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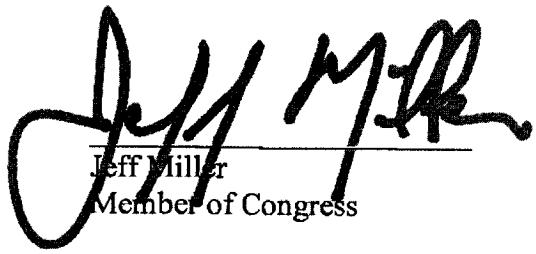

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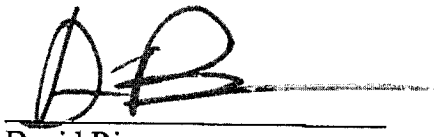

David Rivera
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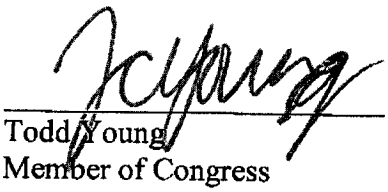
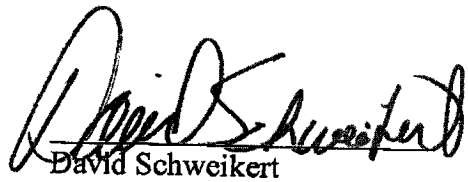
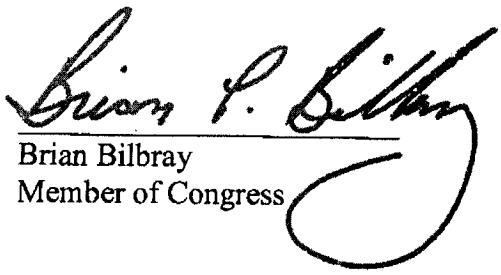
Ileana Ros-Lehtinen
Member of Congress



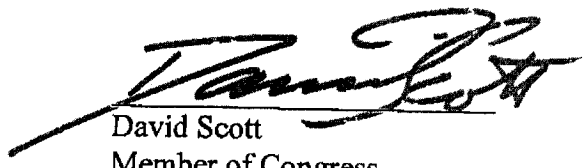
Todd Young
Member of Congress



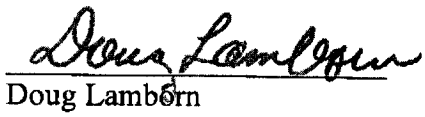
David Schweikert
Member of Congress



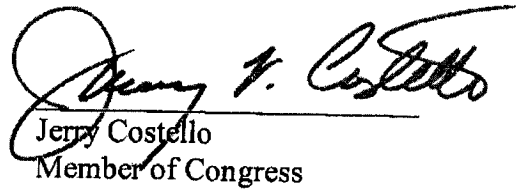
Brian Bilbray
Member of Congress



David Scott
Member of Congress

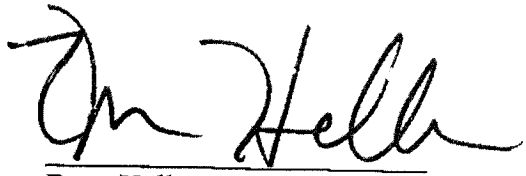


Doug Lamborn
Member of Congress

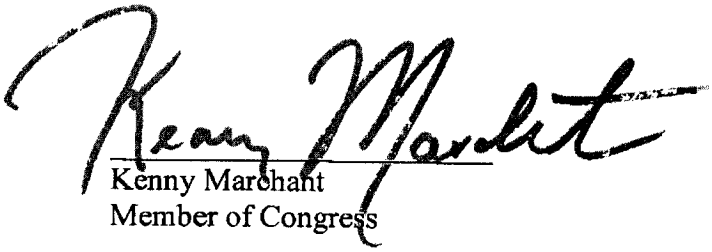


Jerry Costello
Member of Congress

Marsha Blackburn
Member of Congress

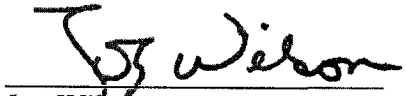


Dean Heller
Member of Congress



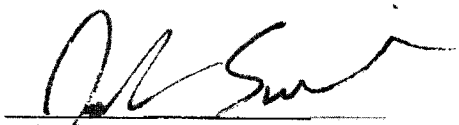
Kenny Marchant
Member of Congress

Ken Calvert
Member of Congress

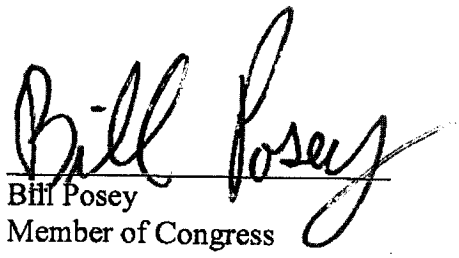


Joe Wilson
Member of Congress

Mike McIntyre
Member of Congress

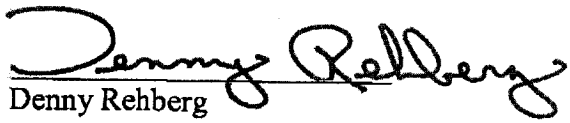


John Sullivan
Member of Congress

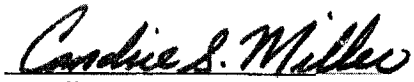


Bill Posey
Member of Congress

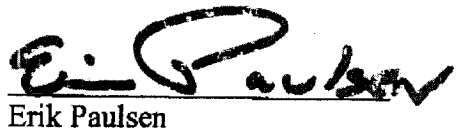
Bill Flores
Member of Congress



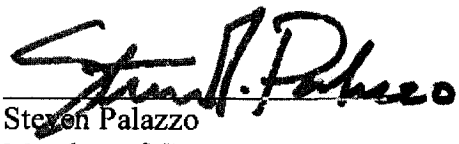
Denny Rehberg
Member of Congress



Candice Miller
Member of Congress

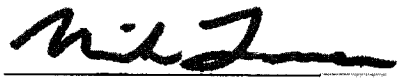


Erik Paulsen
Member of Congress

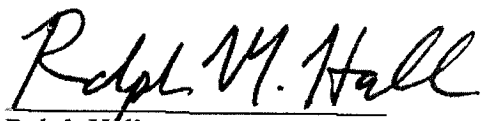


Steven Palazzo
Member of Congress

Bill Owens
Member of Congress



Michael Turner
Member of Congress



Ralph Hall
Member of Congress

Sandy Adams
Member of Congress

Ann Marie Buerkle
Member of Congress

Dan Benishek
Member of Congress

Robert Hurt
Member of Congress

Bill Cassidy
Member of Congress

Patrick McHenry
Member of Congress

Aaron Schock
Member of Congress

Bob Goodlatte
Member of Congress

John Kline
Member of Congress

NY-23
Tom Reed
Member of Congress

Mario Diaz-Balart
Member of Congress

Jeff Duncan
Member of Congress

John J Duncan Jr.
Member of Congress

Blake Farenthold
Member of Congress

Buck McKeon
Member of Congress

Richard Hanna
Member of Congress

Ben Quayle
Member of Congress

Joe Donnelly
Member of Congress

Larry Kissell
Member of Congress

Steve Scalise
Member of Congress

CC:
Nancy Sutley, Chair, White House Council on Environmental Quality (CEQ)
Cass Sunstein, Administrator, Office of Information and Regulatory Affairs (OIRA), OMB

JUL 2 0 2011

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of April 14, 2011, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson and the U.S. Department of the Army Assistant Secretary (Civil Works) JoEllen Darcy regarding draft guidance clarifying the definition of "waters of the United States." I understand your interest in the significant issues associated with the geographic scope of the Clean Water Act (CWA), which are so central to the agencies' mission of assuring effective protection for human health and water quality for all Americans. We appreciate the opportunity to respond to your letter.

Recognizing the importance of clean water and healthy watersheds to our economy, environment, and communities, on April 27, 2011, EPA and the U.S. Army Corps of Engineers (Corps) released draft guidance that would update existing policies on where the CWA applies. We want to emphasize that this guidance was issued in draft and is not in effect. The agencies published the draft guidance in the *Federal Register* on May 2, 2011, and are requesting public comment until July 31, 2011. The guidance will not be made final until the after the comment period has closed and any revisions are made after careful consideration of all public input.

It is also important to clarify that the draft guidance would not change existing requirements of the law nor substantially increase the geographic scope of waters subject to protection under the CWA. The extent of waters covered by the Act remains significantly less than the scope protected under the law prior to Supreme Court decisions in *SWANCC* and *Rapanos,* and the agencies' guidance cannot change that. We believe that guidance will be helpful in providing needed improvements in the consistency, predictability, and clarity of procedures for conducting jurisdictional determinations, without changing current regulatory or statutory requirements, and consistent with the relevant decisions of the Supreme Court.

We share your interest in proceeding with an Administrative Procedure Act rulemaking as soon as possible to modify the agencies' regulatory definition of the term "waters of the United States" to reflect the Supreme Court decisions in *SWANCC* and *Rapanos.* Rulemaking assures an additional opportunity for the states, the public, and stakeholders to provide comments on the scope and meaning of this key regulatory term. EPA and the Corps hope to publish a Notice of Proposed Rulemaking on potential regulatory changes later this year.

Clean water provides critical health, economic, and livability benefits to American communities. Since 1972, the CWA has kept billions of pounds of pollution out of American waters, and has doubled the number of waters that meet safety standards for swimming and fishing. Despite the dramatic progress in restoring the health of the Nation's waters, an estimated one-third of American waters still do not meet the swimmable and fishable goals of the Clean Water Act. Additionally, new pollution and development challenges threaten to erode our gains, and demand innovative and strong action in partnership with Federal agencies, states, and the public to ensure clean and healthy water for American families, businesses, and communities. EPA and the Corps look forward to working with the public, our federal and state partners, and Congress to protect public health and water quality, and promote the nation's energy and economic security.

We appreciate the opportunity to respond to your letter. We hope you will feel free to contact us if you have additional questions or concerns, or your staff may call Denis Borum in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836 or Chip Smith in the Office of the Assistant Secretary (Civil Works) at (703) 693-3655.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator
U.S. Environmental Protection Agency

JoEllen Darcy
Assistant Secretary (Civil Works)
U.S. Department of the Army

Congress of the United States
Washington, DC 20515

June 22, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We write to you today regarding our concerns over the Environmental Protection Agency's (EPA) voluntary reconsideration of the 2008 National Ambient Air Quality Standards (NAAQS) for ground level ozone. As you are well aware, EPA issued its final ozone standard in March 2008, so EPA's proposed July 29, 2011 final reconsideration will come more than three years after the Agency's original decision. Further, EPA's reconsideration is at odds with the Clean Air Act's statutory NAAQS review process that includes mandatory reviews of new science and affords significant public participation and comment. EPA is already more than three years into the current statutory five-year review cycle for the 2008 ozone NAAQS. As such, we are seriously concerned that EPA intends to issue a final reconsideration without adhering to the important procedures and safeguards afforded by the ongoing statutory process.

A departure from the ongoing Clean Air Act statutory review process is extraordinary and EPA's proposed reconsideration will only hurt working families and significantly increase operating costs for manufacturers during this time of economic uncertainty. Indeed, EPA's new proposed standard could nearly triple the number of nonattainment areas and, under the high end of EPA's own estimate, add $90 billion dollars per year to already high operating costs faced by manufacturers, agriculture, and other sectors. Areas that will not be able to meet EPA's proposed new NAAQS will face increased costs to businesses, restrictions on infrastructure investment, and limits on transportation funding. Recent studies indicate that each affected state could lose tens of thousands of jobs, if not more. Our constituents stand to lose their jobs, health care, and other employee benefits for their families. Our communities will lose local tax revenue critical to funding public education and municipal infrastructure.

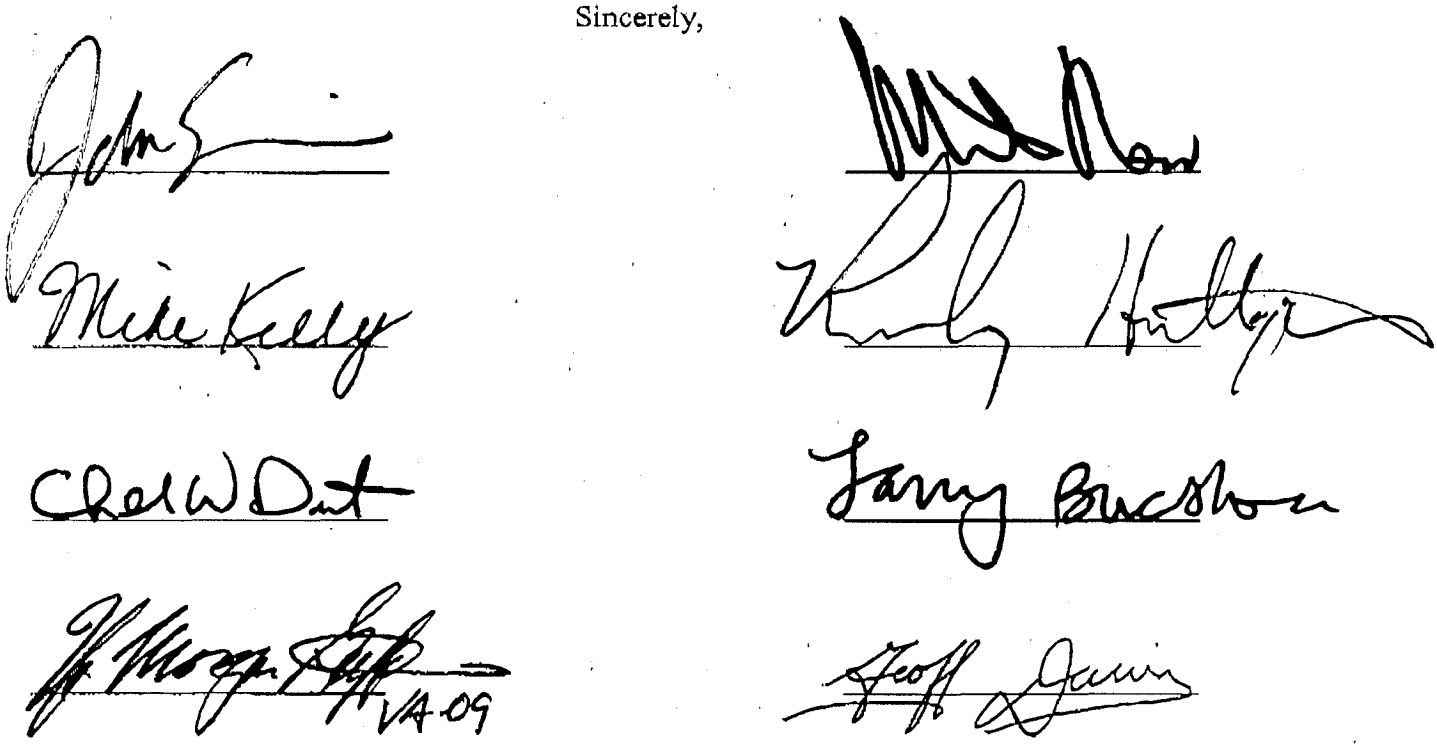
In addition to the various negative economic consequences, states face significant implementation challenges for newly identified nonattainment areas. Given states' current lack of resources, the scope of EPA's proposed reconsideration rule, and the compressed schedule resulting from EPA's proposed July 2011 issuance, many states will find it difficult if not impossible to develop and implement compliance plans. Moreover, EPA's proposed ozone standard is so stringent that even certain remote wilderness areas would violate it, including some of our nation's most pristine national parks such as the Grand Canyon National Park and the Great Smoky National Park.

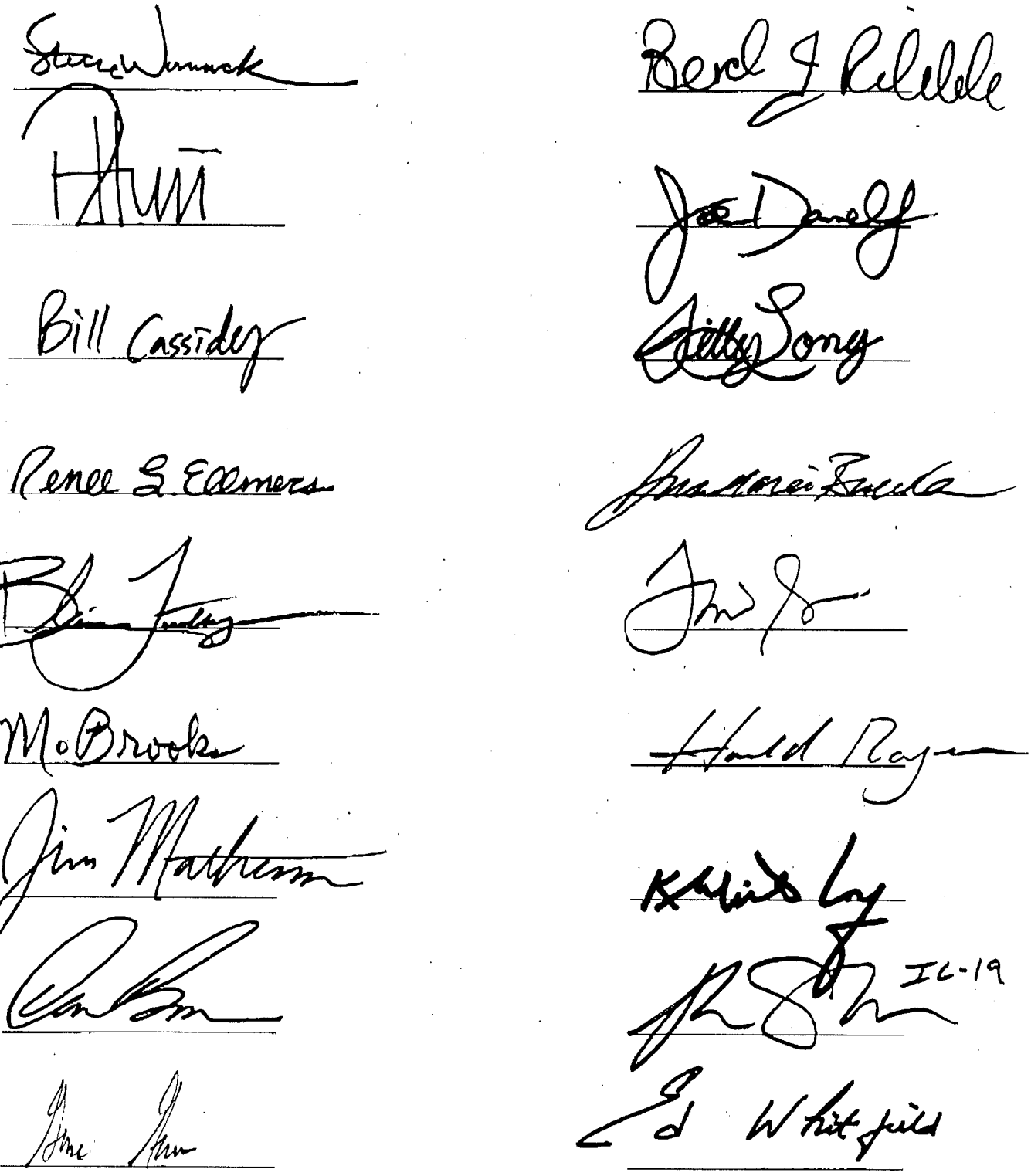
When EPA is essentially three years into a five-year statutory review process, it makes no sense for the Agency to be conducting a simultaneous voluntary reconsideration based on five year-old science. The Clean Air Scientific Advisory Committee (CASAC), to which EPA submitted new charge questions on January 26, 2011, considered its participation as "redundant" to its previous work. EPA's decision to reconsider the 2008 level, outside the regular five-year review process, appears unreasonable given the fact that EPA has offered no new evidence to justify this course of action. Indeed, EPA is now choosing to interpret the same basic body of information that existed in 2008 to reach a different conclusion, a conclusion that just three years ago was found by EPA to be sufficiently protective of public health.

In conclusion, given the significant costs and implications of EPA's current proposed rule, evaluating new information and affording the public the opportunity to participate is critical to avoid detrimental impacts on the people the rule is intended to protect. Accordingly, we strongly urge EPA to consider merging its current discretionary reconsideration into the ongoing five-year review process. Doing so will permit EPA to focus its efforts and resources on one proceeding, thereby limiting the unnecessary redundancy resulting from the parallel proceedings it is currently managing.

The five-year review process will focus on the same issues as the reconsideration, but will have the added advantage of permitting the review of new information, utilizing the thorough procedural process established by the Clean Air Act, and affording the public the opportunity to fully participate. Certainly this approach is more favorable than the current reconsideration process which limits the use of new data and limits the public from providing comments that will assist the EPA in its evaluation and subsequent establishment of new standards.

Sincerely,

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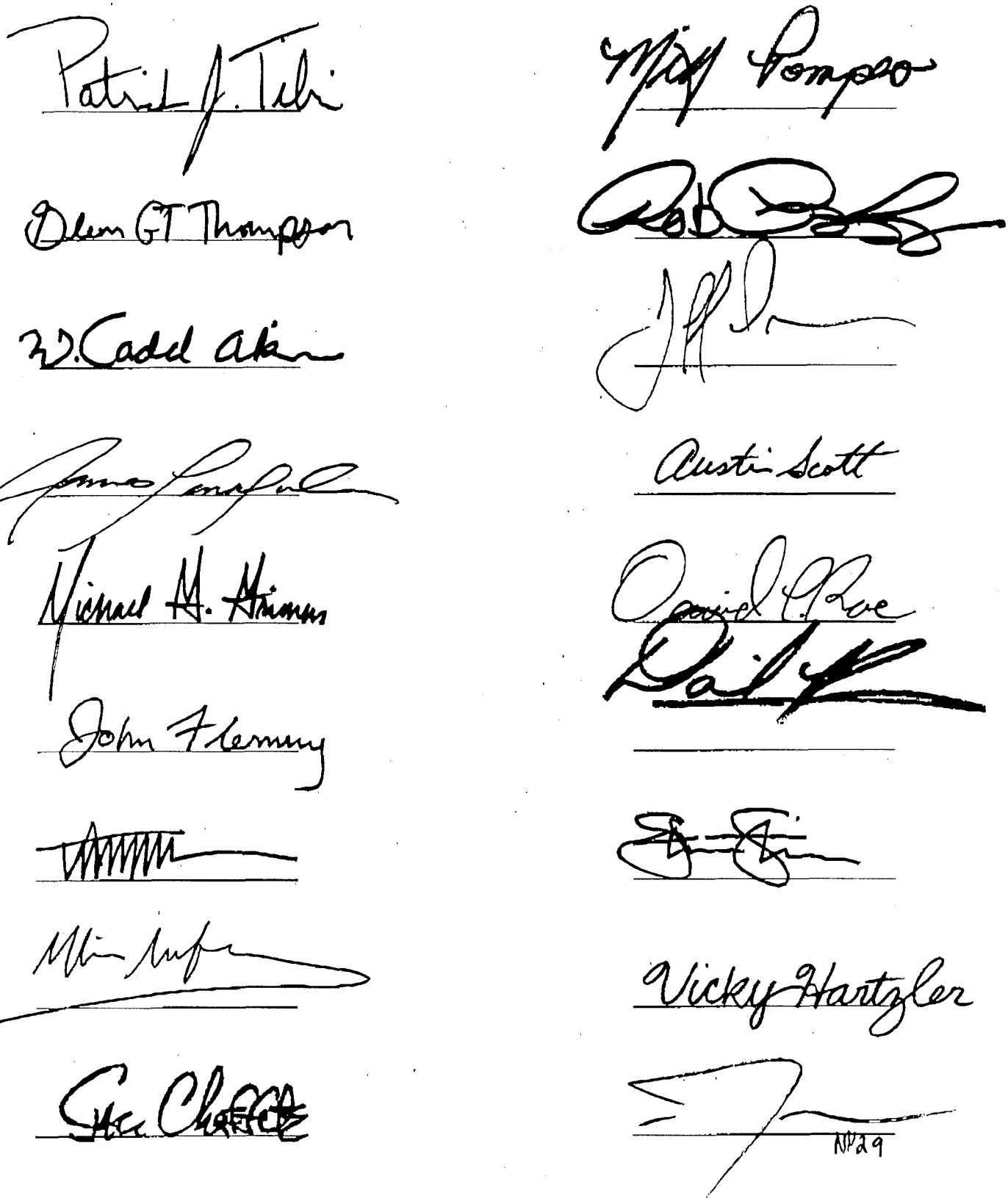
Renee L. Ellmers
M. Brooks
Jim Matheson
IL-19
Ed Whitfield



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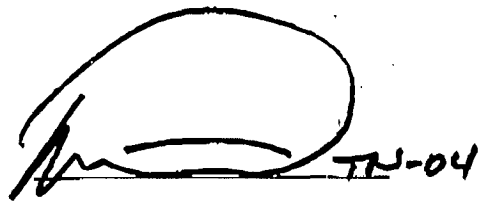
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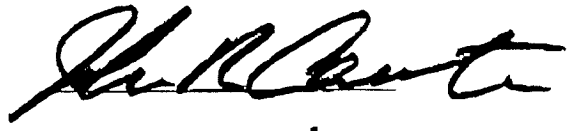

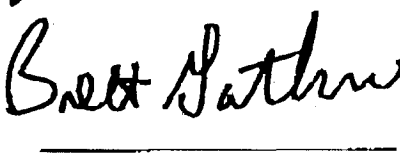

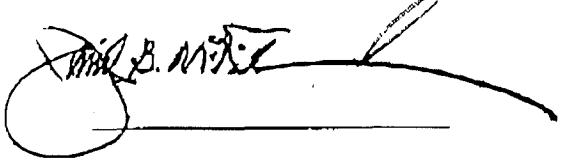

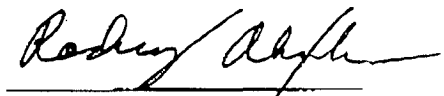

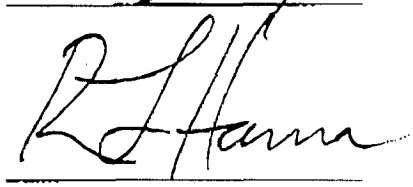

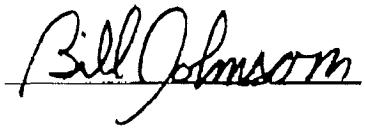

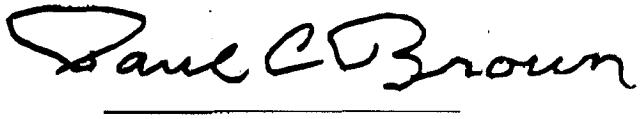

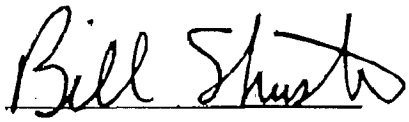

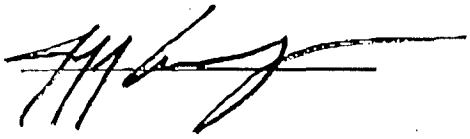

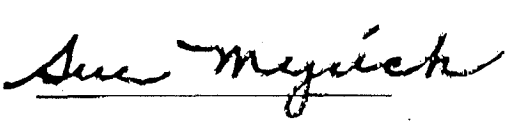

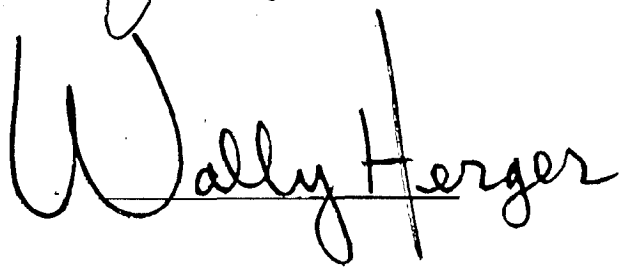

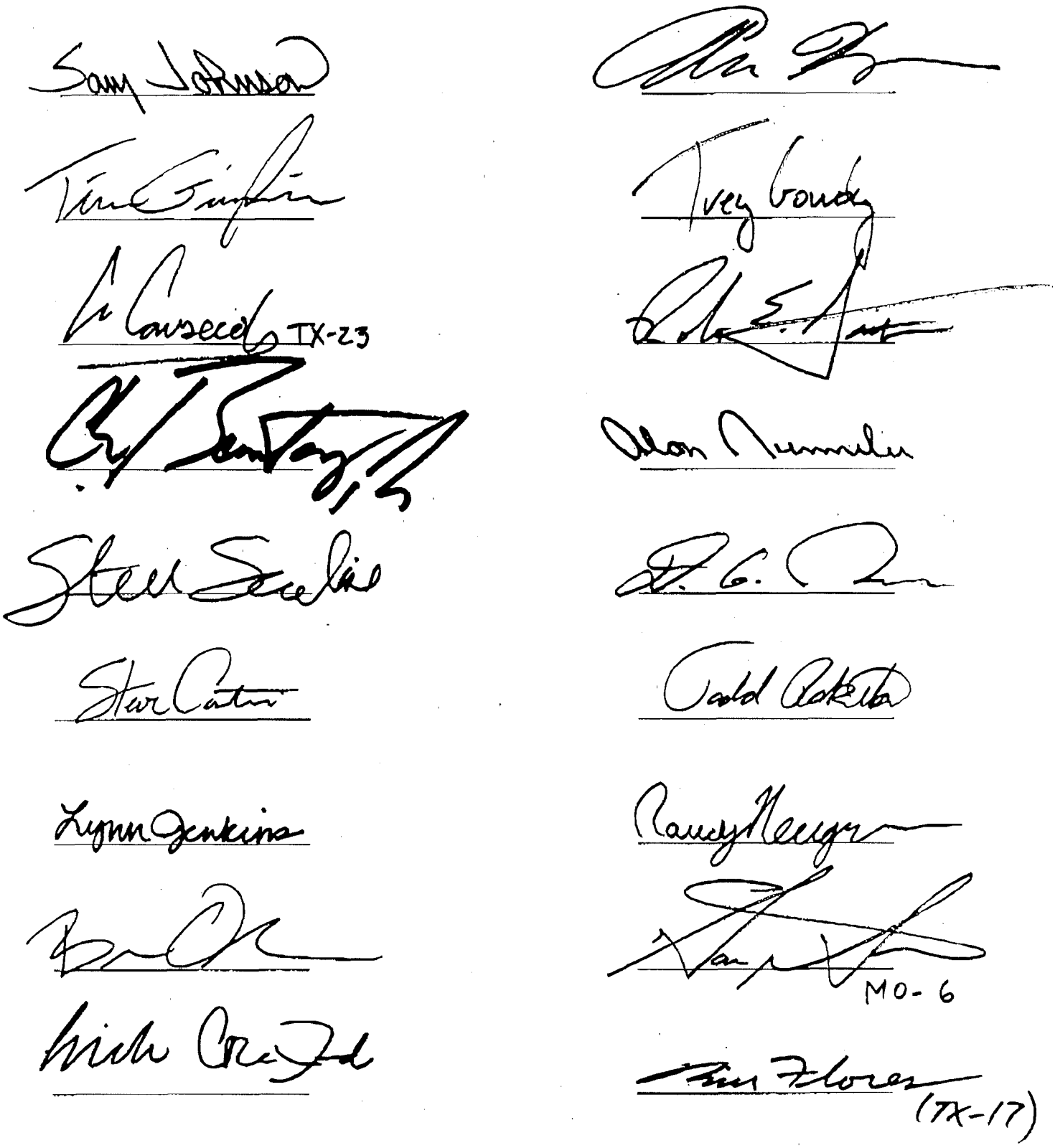
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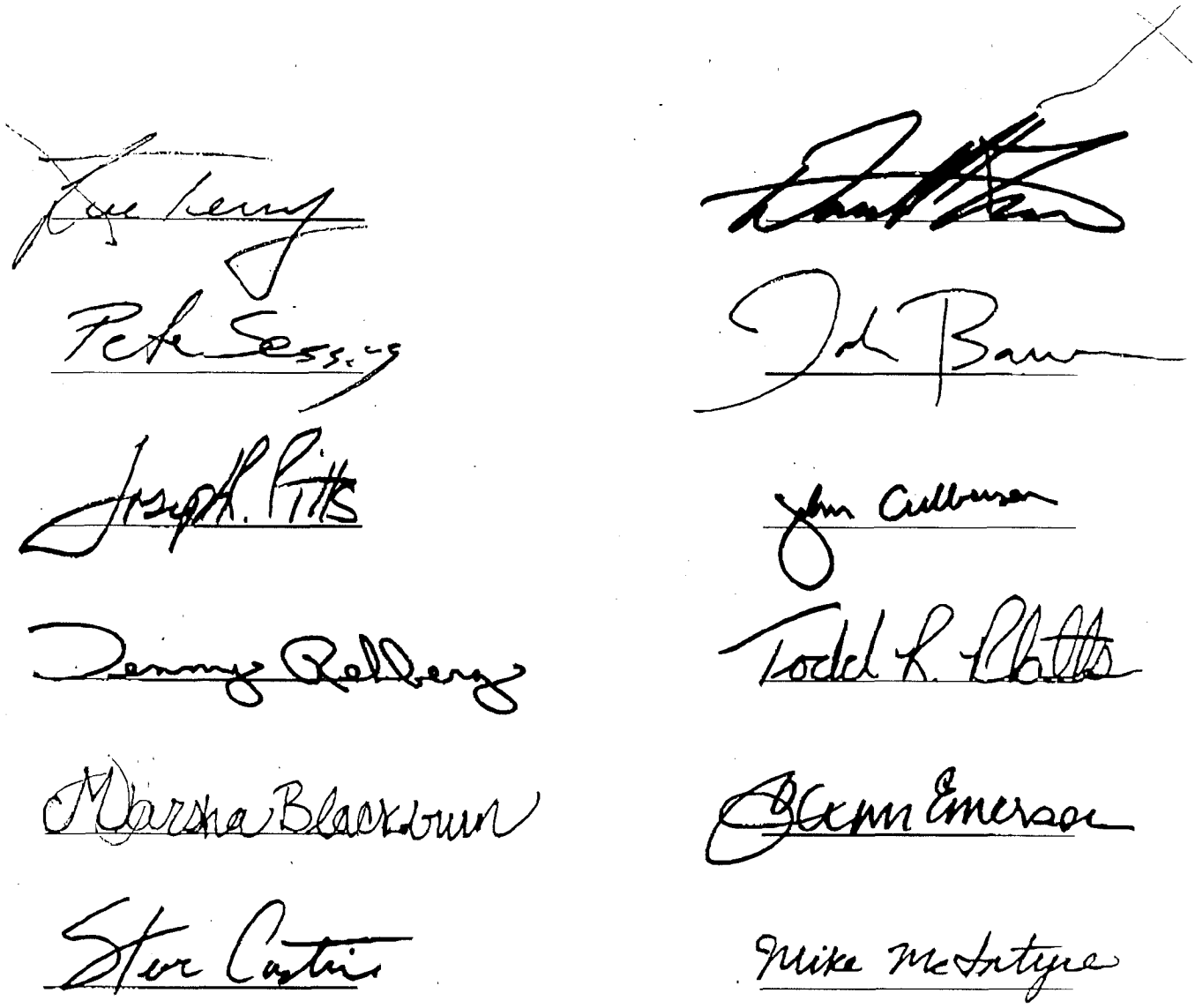

FAX COVER SHEET
FROM THE WASHINGTON, D.C. OFFICE OF

CONGRESSMAN JOHN SULLIVAN

434 Cannon House Office Building
Washington, D.C. 20515
Phone: (202) 225-2211
Fax: (202) 225-9187
http://sullivan.house.gov

TO: EPA Administrator Lisa Jackson

DATE: 6/22/11

FAX: (202) 501 1550

PAGES TO FOLLOW: 7

FROM:
- [x] Congressman John Sullivan
- [ ] Elizabeth Barthold, Chief of Staff
- [ ] John Rainbolt, Legislative Director
- [ ] Vaughn Jennings, Press Secretary
- [ ] Jon Oehmen, Legislative Assistant
- [ ] Victoria Palmer, Legislative Assistant
- [ ] John Senger, Legislative Assistant
- [ ] Olivia Vickers, Executive Assistant
- [ ] Lauren Greene, Staff Assistant

Bipartisan Congressional letter to EPA on NAAQS reconsideration — Thanks!

BOB GIBBS
18TH DISTRICT, OHIO

TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCOMMITTEES
CHAIRMAN
WATER RESOURCES AND ENVIRONMENT
HIGHWAYS AND TRANSIT
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

AGRICULTURE COMMITTEE
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(740) 452-2279

Congress of the United States
House of Representatives
Washington, DC 20515–3518

September 16, 2011

Administrator Lisa Jackson
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: ***U.S. EPA Approval of Transfer of Regulatory Authority from Ohio EPA to ODA***

We would respectfully request the approval to transfer regulatory responsibility over the Ohio National Pollutant Discharge Elimination System (NPDES) program from the Ohio Environmental Protection Agency (Ohio EPA) to the Ohio Department of Agriculture (ODA). It is our understanding that transfer of this authority over concentrated animal feeding operations and storm water from animal feeding operations was set into motion with the Clean Water Act (CWA) and has been in process for over four years.

In 2001, Ohio passed legislation to transfer state NPDES permitting authority over concentrated animal feeding operations (CAFOs) from Ohio EPA to ODA. That same year, Ohio informally notified U.S. EPA about this desired state program change, and ODA passed its first CAFO NPDES rules a year later in 2002.

In 2007, the ODA formally applied for the transfer of authority and, over the past four years, the department has responded to numerous requests from U.S. EPA for statutory and regulatory revisions and changes that would ultimately authorize the NPDES transfer. Despite all of these best efforts, the transfer still has not culminated due to even more requests for revisions.

In October 2008, U.S. EPA Region 5 notified the public that it was proposing to approve Ohio's request to transfer the state's NPDES program for CAFOs to ODA pending Ohio's approval of the additional rule and statutory changes. Ohio's legislature moved swiftly to adopt these changes hoping it would be the last step necessary to obtain the approval of the transfer.

In May 2011, the ODA initiated a fifth rulemaking process to respond to any EPA comments and to prepare for any updates or changes necessitated by U.S. EPA's revisions. This request has remained pending during the administration of three Ohio governors, two Republicans and one Democrat, and has yet to be approved. During this whole process, ODA has continued to work closely with Ohio EPA in preparing for the transfer of the CAFO NPDES authority between the two state agencies.

There are a number of reasons to prompt a decision from U.S. EPA to approve the transfer of authority:

- ODA's state-only permits (Permit to Install and Permit to Operate) are more comprehensive in the scope of regulatory requirements over permitted activities of CAFOs than permits previously issued by Ohio EPA.
- Approval of Ohio's request will allow Ohio EPA to re-direct its resources toward other sources of water pollution.
- ODA has a larger staff for engineering, inspections, communications and legal support than Ohio EPA ever employed for environmental oversight over livestock facilities.
- The ODA staff is trained in agricultural engineering, agronomy, animal science, water quality, insect and rodent control and has the expertise that is required to prevent environmental problems.
- Ohio still has duplicative and overlapping permit programs that can only be eliminated if U.S. EPA authorizes ODA to issue and enforce NPDES permits along with the state-only permits.
- This transfer will allow ODA to deliver a more comprehensive regulatory program that is protective of the environment.
- This is a sensible re-distribution of regulatory work between two state agencies.
- Permitted farm owners/operators would be working with the same staff for both the NPDES permits and state-only permits, making the permit process and communications more uniform and predictable.

There is precedent that authority can, and has been, shared between state agencies in other federal environmental programs. The Ohio program for the Underground Injection Control Program established pursuant to Sections 1422 and 1425 of the Safe Drinking Water Act is administered by the Ohio Department of Natural Resources and the Ohio EPA, with both programs authorized by U.S. EPA. Similarly, the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. 6921, as amended, is implemented in Ohio by two cabinet-level departments: the Ohio EPA for hazardous waste regulation and the Ohio Department of Commerce State Fire Marshal's Office for underground storage tanks. U.S. EPA has also recognized the ODA as an effective regulator in another environmental program area. The ODA has been in charge of Ohio's regulatory and enforcement programs under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for over thirty years.

We are confident that the State of Ohio has provided sufficient documentation for the EPA to determine that the Ohio Department of Agriculture possesses adequate authority to implement the proposed NPDES program, in accordance with CWA section 402(b) and 40 C.F.R. Part 123.

We look forward to receiving notification of the U.S. EPA's timely approval.

Bob Gibbs
Member of Congress

Jim Jordan
Member of Congress

Jean Schmidt
Member of Congress

Jim Renacci (OH-16)
Member of Congress

Bob Latta
Member of Congress

Steve Chabot
Member of Congress

Bill Johnson
Member of Congress

Patrick Tiberi
Member of Congress

PATRICK J. TIBERI
12TH DISTRICT, OHIO

COMMITTEE ON WAYS AND MEANS
CHAIRMAN, SUBCOMMITTEE ON SELECT REVENUE MEASURES

SUBCOMMITTEE ON SOCIAL SECURITY

Congress of the United States
House of Representatives

COLUMBUS OFFICE:
3000 CORPORATE EXCHANGE DRIVE
SUITE 310
COLUMBUS, OH 43231
PHONE: (614) 523-2555
FAX: (614) 818-0887

WASHINGTON OFFICE:
106 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3512
PHONE: (202) 225-5355
FAX: (202) 226-4523

http://tiberi.house.gov

April 23, 2012

David McIntosh
Associate Administrator
Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

Fax: (202) 501 – 1519

Dear Mr. McIntosh:

The attached communication concerns a request my constituent has forwarded to me which is under the jurisdiction of your office.

Please look into the statements contained within the attached documents and forward me the necessary information for reply. Please address your reply to my district office as listed above.

If you have any questions, please contact Nancy Shaver in my district office at 614-523-2555. Thank you for your time and attention to this matter, and I will look forward to your reply.

Sincerely,

Pat

Patrick J. Tiberi
Representative to Congress

PJT/ns

Enclosure

E-Mail Viewer

Message | Details | Attachments | Headers | Source

HTML

From: "Web forms" <webforms@www3z1.house.gov>
Date: 4/19/2012 7:05:01 PM
To: "Congressman Pat Tiberi" <oh12ima@mail.house.gov>
Cc:
Subject: WriteRep Responses

(b) (6)

Tiberi,

My previous employer, Advanced drainage Systems, Inc. is trying to resolve an issue in Mexico involving NAFTA. The letter below covers the issue quite well.ADS has had good assistence from the Department of Commerce, but needs a letter from the USEPA stating that ASTM International specifications are referenced on sanitary sewer projects in the U. S. (they are, almost exclusively). Any help you could provide to encourage them to respond quickly would be very helpful.

I think the appropriate EPA contacts are James Hanlon (202-564-0748) or Randy hill (same #)

Thanks.

(b) (6)

(b) (6)

Re: ASTM International Sanitary Sewer Standards
Dear _____,
Advanced Drainage Systems Inc. ("ADS") is an American company that manufactures corrugated high density polyethylene and polypropylene pipe, for use in sanitary sewer systems. For a number of years, ADS has been exporting its pipe to, and producing its pipe in, Mexico. Yet despite an established history of certification and sales in Mexico, in 2009 Mexico's National Water Commission ("Conagua") suddenly refused to recertify ADS-manufactured pipe under its mandatory quality and safety standards (codified as NOM-001 and NMX-E-241).
As rationale for its sudden decision, Conagua initially pointed to ISO standards related to polyvinyl chloride ("PVC") pipe as the only relevant standards for pipe in Mexico, despite years of certifying ADS pipe, and despite the fact that these ISO standards are not codified under NOM-001 or NMX-E-241. However, when the Office of the U.S. Trade Representative raised concerns regarding Congagua's actions recently at the World Trade Organization, Mexican officials agreed to recertify ADS pipe so long as the U.S. Government can confirm that the relevant international standards upon which ADS pipes are based are recognized by the United States.
We therefore respectfully request that the EPA, as the primary federal agency charged with protecting human health and the environment, issue a letter confirming to the Mexican Government that the U.S. Government recognizes and permits the use of pipe products meeting standards promulgated by well-established consensus standards organizations, including the American Society for Testing and Materials ("ASTM") International, and specifically but not limited to the following ASTM standards relevant to sanitary sewer systems: F2762, F2763, F2736, and F2764. These are standards that ADS pipe are designed and manufactured to meet here in the United States, and confirmation by EPA of the recognition and use of these standards in the United States would be very helpful towards resolving this dispute with Mexico.
In this regard, we have attached a draft letter for your consideration. Additionally, we are available to meet with you in

Washington, D.C. the week of April 23rd to further discuss this issue. Please let us know your availability for such a meeting, or if you have any additional questions or concerns.
Sincerely,
cc: Julia Doherty, Senior Director for Technical Barriers to Trade
Office of the U.S. Trade Representative
</MSG>
</WRP>

Close

THE MOST ADVANCED NAME IN DRAINAGE SYSTEMS

ADS

April 20, 2012

Mr. James A. Hanlon - Director
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, Northwest
Washington, District of Columbia 20004

Re: ASTM International Sanitary Sewer Standards

Dear Mr. Hanlon,

Advanced Drainage Systems Inc. ("ADS") is an American company that manufactures corrugated high density polyethylene and polypropylene pipe, for use in sanitary sewer systems. For a number of years, ADS has been exporting its pipe to, and producing its pipe in, Mexico. Yet despite an established history of certification and sales in Mexico, in 2009 Mexico's National Water Commission ("Conagua") suddenly refused to recertify ADS-manufactured pipe under its mandatory quality and safety standards (codified as NOM-001 and NMX-E-241).

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In this regard, we have attached a draft letter for your consideration. Additionally, we are available to meet with you in Washington, D.C. the week of April 23rd to further discuss this issue. Please let us know your availability for such a meeting, or if you have any additional questions or concerns.

Sincerely,

Ewout Leeuwenburg
Senior Vice President of International Operations

cc: Julia Doherty, Senior Director for Technical Barriers to Trade
Office of the U.S. Trade Representative

ADVANCED DRAINAGE SYSTEMS, INC., 4640 TRUEMAN BLVD., HILLIARD, OH 43026 PHONE: 800/733-7473
E-mail: info@ads-pipe.com Web site: www.ads-pipe.com

PATRICK J. TIBERI
12TH DISTRICT, OHIO

COMMITTEE ON WAYS AND MEANS
RANKING MEMBER, SUBCOMMITTEE ON SELECT REVENUE MEASURES

SUBCOMMITTEE ON SOCIAL SECURITY

SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT

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PHONE: (614) 523-2555
FAX: (614) 818-0887

WASHINGTON OFFICE:
113 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3512
PHONE: (202) 225-6355
FAX: (202) 226-4523

www.house.gov/tiberi

Congress of the United States
House of Representatives
Washington, DC 20515-3512

FAX COVER SHEET

To: Congressional Relations, EPA

Fax# 202-501-1519

Date: 4/23/12

Pages w/ cover sheet: 4

From:

_____ Congressman Pat Tiberi

_____ Mark Bell

_____ Beth Estelle

_____ Pam Hedrick

_____ Matt Beckett

_____ Chris Zeigler

_____ Walter Taylor

__X__ Nancy Shaver

_____ Luke Crumley

____ _____

Notes:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 2 0 2012

OFFICE OF WATER

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of April 23, 2012, regarding Advanced Drainage Systems, Inc. Your constituent, (b) (6) [redacted], requested your help facilitating the issuance of a letter from the U.S. Environmental Protection Agency (EPA) stating that ASTM International specifications are referenced on sanitary sewer projects in the United States.

Enclosed please find a copy of the letter we recently sent to Mr. Alberto Ulises Esteban Marina of La Comisión Nacional del Agua in Mexico. I hope this letter is sufficient documentation to resolve your constituent's situation.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0255.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 0 9 2012

OFFICE OF
WATER

Mr. Alberto Ulises Esteban Marina
La Comisión Nacional del Agua
Insurgentes Sur 2416 Col. Copilco El Bajo
Delegactión Coyoacán
México D.F.
C.P. 04340

Re: ASTM International Sanitary Sewer Standards

Dear Mr. Marina:

I am writing to you because I understand from the Office of the United States Trade Representative that you are interested in ascertaining whether the United States Environmental Protection Agency (the "U.S. EPA") believes that the use of sanitary sewer pipes meeting certain ASTM International specifications are acceptable for use in sewer projects subject to U.S. EPA oversight. I am pleased to provide you this response.

The U.S. EPA operates under a number of federal laws and implementing regulations to protect human health and the environment. Pursuant to the U.S. federal Clean Water Act, the U.S. EPA establishes requirements on the operations of and effluent discharges from U.S. sanitary sewer systems, and also provides funding and technical assistance for the construction and operation of such systems.

The U.S. EPA does not establish design standards for sanitary sewers. Instead, States and municipalities within the United States are responsible for establishing such design standards. The most widely known and referenced set of design standards are the Recommended Standards for Wastewater Facilities, 2004, by the Great Lakes - Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, which specifically describe use of applicable ASTM International standards. The Recommended Standards for Wastewater Facilities specifically apply within the Member States and Province: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, Wisconsin, and Ontario. Beyond the 10 Member States and Province, many other States have chosen to incorporate the recommended standards by reference.

In projects for which it provides funding, the U.S. EPA permits the use of pipe products meeting standards promulgated by well-established consensus standards organizations, including the American Society for Testing and Materials ("ASTM") International. ASTM International standards represent the culmination of years of testing and evaluations of products by independent laboratories, and draw upon the highest available level of technical expertise, including collaboration from product users, specifiers, engineers, and manufacturers. The U.S. EPA views ASTM International standards, including but not limited to F2762, F2763, F2736, and F2764, as suitable to ensure the safety and efficacy of HDPE pipe used for sanitary sewer purposes.

Accordingly, the U.S. EPA hereby confirms that ASTM International sanitary sewer standards are acceptable to the U.S. EPA for sanitary sewer systems applications in the United States.

Sincerely,

James A. Hanlon

cc: Juan Antonio Dorantes, Ministry of Economy, Government of Mexico
Julia Doherty, Office of the U.S. Trade Representative
Nate Hamilton, General Counsel, Advanced Drainage Systems, Inc.

Congress of the United States
Washington, DC 20515

April 30, 2012

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are writing to encourage you to use the best available, peer-reviewed science in the amendments proposed by the Environmental Protection Agency's (EPA) November 23, 2011, proposed rule entitled "National Emissions Standards for Hazardous Air Pollutants: Ferroalloys Production" (76 FR 72508.) This proposed rule would supplement existing regulations and require ferroalloys production facilities to install additional costly emissions control equipment. The President has directed federal agencies in Executive Order 13563 to base regulations on the best available science, and to employ the least burdensome tools for achieving regulatory ends.

Manganese ferroalloys are a critical ingredient of steelmaking and are important to national interests. A Department of Commerce investigation found that ferroalloy production is critical to national defense. Final promulgation of the NESHAP standards proposed last November could likely result in the closure of the last two manganese ferroalloy plants in the United States with no commensurate public health benefit. Plant closures will impact over 450 high wage manufacturing jobs, mostly among members of the United Steel Workers Union, with dramatic negative impacts on the struggling communities of Marietta, Ohio and Letart, West Virginia.

We have been informed that the scientific justification for the proposed rule is outdated and may not be supported by real world data, and that the standards may not be achievable in practice by real-world facilities. In establishing the proposed standards, EPA relies upon a science assessment issued in 1993, neglecting recent peer-reviewed scientific information. To achieve the proposed standards, EPA's proposal assumes that the affected facilities would install technologies that may not be appropriate or effective as applied to ferroalloys production facilities.

Given the importance of relying upon the best available science to protect the public health, jobs and the economy, we strongly urge the EPA to take the following steps before promulgating a final rule:

1. Ensure that any determinations or standards developed by EPA to address residual risk are based on the best available scientific and technical information.
2. Work with stakeholders, including the two remaining domestic manganese ferroalloy producers, to identify feasible technologies to achieve protections in a way that also protects jobs and the economy.

We encourage EPA to consider seeking an extension of the court-imposed deadline for issuing the final rule, in order to give adequate attention to our requests.

Sincerely,

Todd R. Platts PA-19

Thomas Rooney FL 16

Bartlett MD 6

Charlie Dent PA-15

Jo Ann Emerson MO8

W. Todd Akin MO-2

Kevin Brady TX-8

Bill Flores TX-17

Tim Walberg MI-07

[illegible] OK5

Don Manzullo

Judy Biggert

T. McCotter (MI-11)

[illegible]

[illegible]

C.A. Dutch Ruppersberger

Larry Bucshon

Chuck Fleischmann TN-3

[illegible] MD-01

Steve Chabot OHIO 1

Fleming LA04

[illegible] II FL-02

[illegible] TX-11

Bill Posey FL 15

Thomas Price GA06

Jeff Duncan SC-3

Ileana Ros-Lehtinen Fl 18

[illegible] OH-14

Steve Austria OH-7

Patrick J. Tiberi

Jason Altmire

David B. McKinley

Bob Gibbs

Cc: Jacob Lew, Chief of Staff, The White House
Nancy Ann DeParle, Deputy Chief of Staff for Policy, The White House
Cass Sunstein, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 19 2012

OFFICE OF
AIR AND RADIATION

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Tiberi:

Thank you for your letter of April 30, 2012, to the Administrator Lisa Jackson, co-signed by fifty-one of your colleagues, in which you expressed concerns regarding the potential economic impacts and validity of the technical data for the National Emissions Standards for Hazardous Air Pollutants for Ferroalloys Production. I have been asked by the Administrator to reply to your letter on her behalf.

The U.S. Environmental Protection Agency is committed to using the best available science to support its regulations and its residual risk analyses. With this in mind, we are continuing to carefully review and re-analyze the available data. We are also sensitive to the potential economic impact that this rule could have on the facilities located in Marietta, Ohio and Letart, West Virginia, and we are working with them and other stakeholders to find the best options available. We thank you for your comments and will take them into consideration as we craft the final rule.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Cheryl Mackay in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

Gina McCarthy
Assistant Administrator

Congress of the United States
Washington, DC 20515

August 3, 2012

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

The Utica and Marcellus shale regions of the United States have abundant reserves of oil and natural gas. The development of these resources has the ability to significantly benefit our economy. Our states have the ability to create thousands of new jobs, generate millions of dollars of new revenue for governments, and help enhance our nation's energy security. Because of this great potential and our desire to protect the environment, we are carefully following the progress of your agency's study exploring the potential impact of hydraulic fracturing on drinking water resources (HF Study). We believe it is in the interest of the citizens of our states and the nation as a whole that this study be conducted as directed by Congress, "using a credible approach that relies on the best available science" and in accordance with the highest scientific standards.

Battelle Memorial Institute (Battelle) recently conducted a critical review of your Agency's study plan and the associated quality management documents governing the conduct of your HF Study. The Battelle report highlights many deficiencies in the study design and conduct, including problems in the quality assurance plan and the idea of using retrospective sites where baseline data does not exist. These issues, if not addressed at the outset, would materially impact the scientific rigor and validity of the study results.

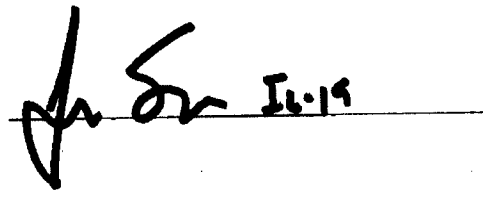
This study is too important to the future of domestic energy development to be conducted in a manner that falls short of the highest scientific standards. We, therefore, urge you to take seriously the Battelle report findings. We encourage you to heed Battelle's recommendation to engage with outside experts, including experts from industry, and to carefully consider the report critiques and recommendations, making adjustments to the study plan and path forward, as appropriate.

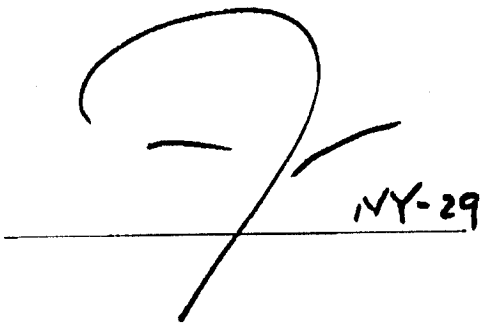
EPA's recent studies on hydraulic fracturing have given us cause to be concerned about the manner in which this study is designed, executed, and the way that information is released to the public. EPA's work on other studies, including the investigation of alleged contamination incidents in Pavillion, Wyoming, Parker, Texas, and Dimock, Pennsylvania has lacked the observance of the highest scientific standards and created tremendous public concern, despite not having a sound basis for the initial findings. Unfortunately, the damage was done by the premature release of faulty results.

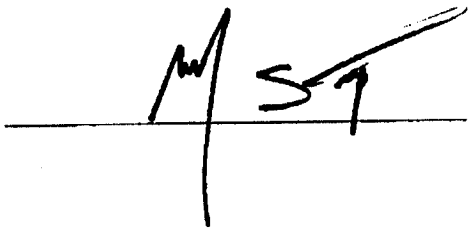
Therefore, it's critical to avoid another such misstep especially with this current study. Additionally, there are many countries around the world that are now considering the development of oil and natural gas resources, the recovery of which will rely upon hydraulic fracturing. The EPA report will quite likely be a guiding document in the development of many of these policies and programs.

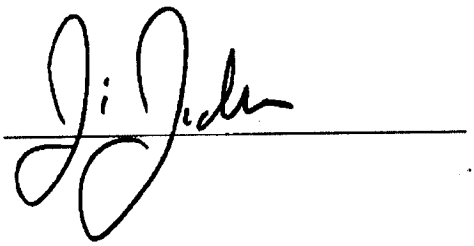
We support the important goals of this study and the continued development of our nation's domestic oil and natural gas resources. We look forward to a detailed response identifying areas where the Agency will move to improve the scientific rigor and validity of the study.

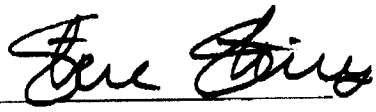
Sincerely,

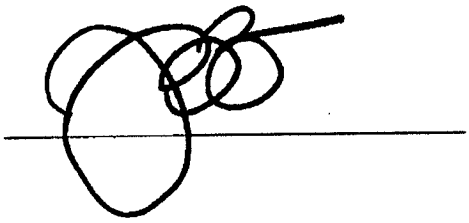


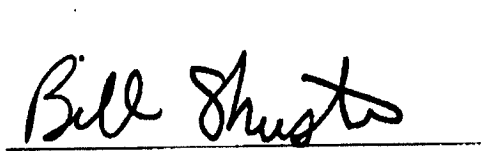


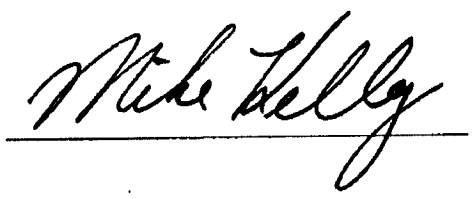












Jason Altmire

Bd. Dibble

Tim Murphy

Jamil B. Mize

Congress of the United States
Washington, DC 20515

November 21, 2012

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson,

We are concerned about the Environmental Protection Agency's (EPA) proposed rule to reduce National Ambient Air Quality Standards (NAAQS) for fine particulate matter ($PM_{2.5}$). This proposed rule would impact our states and local communities by imposing burdensome new restrictions on economic growth -- just at the time these areas are struggling to attract much needed new jobs. The Agency is proceeding in an expedited fashion despite stakeholder comments stating that these regulations will impose an undue burden and despite telling a federal court last May that the Agency would need until August 2013 to review those comments and finalize the $PM_{2.5}$ rule.

EPA's proposal to lower $PM_{2.5}$ NAAQS comes as counties and states are showing tremendous success in implementing the current standards. According to EPA's own analysis, $PM_{2.5}$ emissions have been cut in half over the last ten years, dropping by 1.1 million tons per year. Air quality is also improving as average $PM_{2.5}$ concentrations have been reduced by 27% over that same period. While certain states continue their work to attain the current standards, they all share the achievement of cleaner air. EPA's proposal to further reduce $PM_{2.5}$ NAAQS unfairly moves the goalposts in mid-game, and puts many communities at risk of being stigmatized as non-attainment.

Reducing $PM_{2.5}$ NAAQS from the current 15 $\mu g/m^3$ to EPA's proposed range of 13 to 12 $\mu g/m^3$ will have wide-ranging impact across the country. EPA data indicates numerous counties meeting the current standard will fail this new more stringent range. Far more counties face non-attainment should EPA select 11 $\mu g/m^3$, an outcome for which Agency accepted comments. When accounting for EPA designation and implementation policies, the proposed rule puts hundreds of counties at risk of non-attainment.

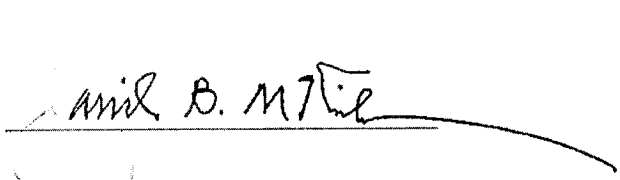
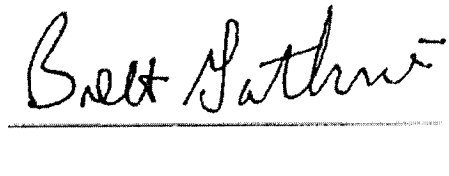
Counties designated as non-attainment areas face immediate, substantial, and long-lasting economic consequences. Existing facilities are often required to install new, expensive controls. Local infrastructure is impacted as federal funds for transportation projects are withheld unless those projects can be shown not to increase $PM_{2.5}$ emissions. New businesses seeking to build or upgrade operations must install the most effective $PM_{2.5}$ emissions controls, without consideration of cost, and are subject to enhanced EPA oversight. In addition, businesses must

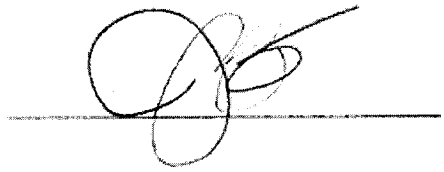
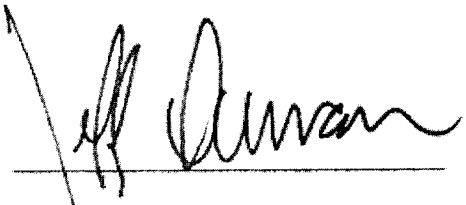
offset new $PM_{2.5}$ emissions by paying for emissions reductions at existing facilities. In the absence of affordable offsets, new projects cannot proceed.

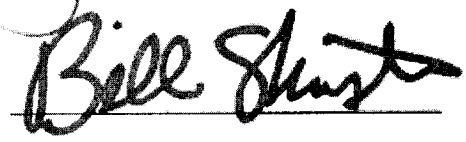
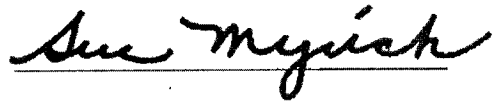
Moreover, restrictions do not end once non-attainment areas achieve the $PM_{2.5}$ NAAQS. Instead, these counties must petition EPA to be redesignated to attainment by submitting a complex maintenance plan listing numerous mandatory and long-lasting measures. The sum of all these non-attainment regulatory burdens is lost business investment in local communities, reducing tax revenues supporting local schools as well as first responders and effectively hamstringing any efforts to overcome present fiscal hardships.

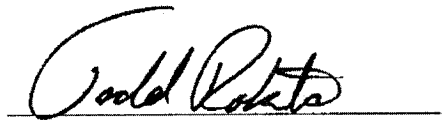
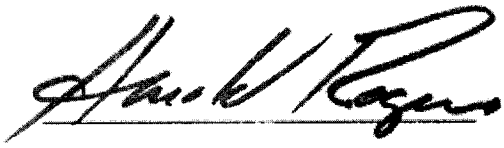
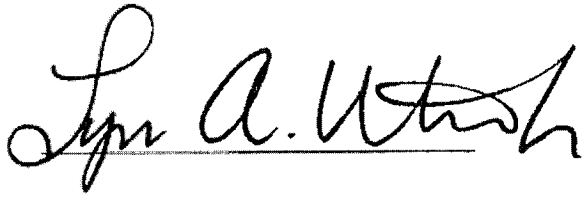
In light of the substantial economic impact involved, and in keeping with President Obama's Executive Order 13563, we believe that the Agency should not force stringent new NAAQS too quickly. Doing so will hurt counties and states - many still implementing the current $PM_{2.5}$ NAAQS - struggling to move out of challenging economic conditions. Rather, EPA should maintain the current standards, and work with communities to continue the long-term trend of $PM_{2.5}$ emissions reductions.

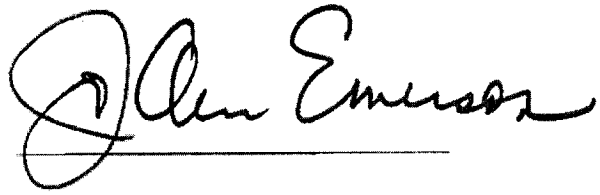
Sincerely,

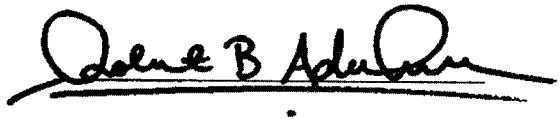
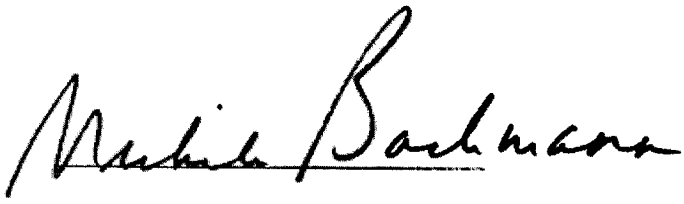



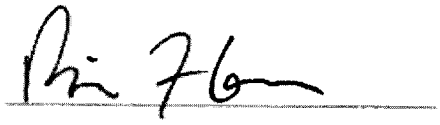
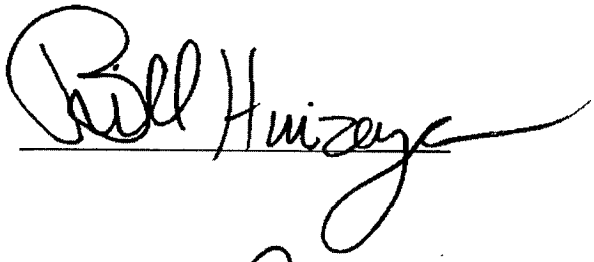



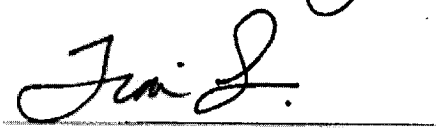
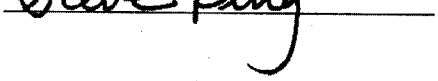
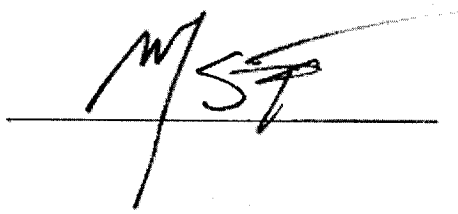
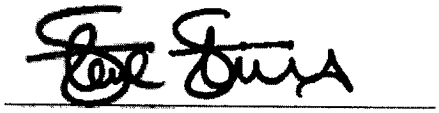



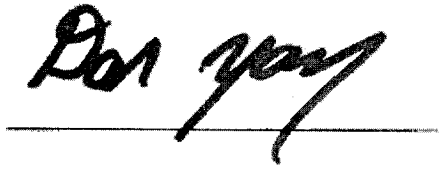




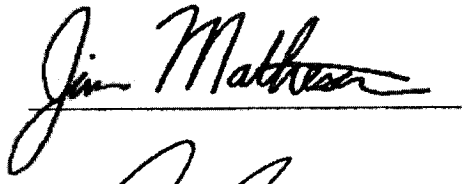


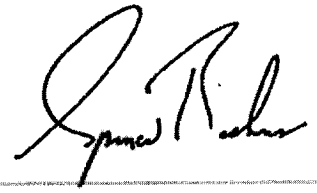




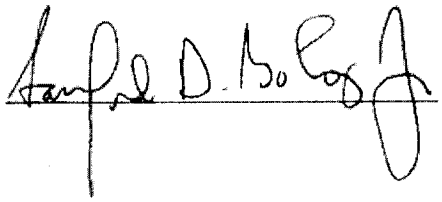



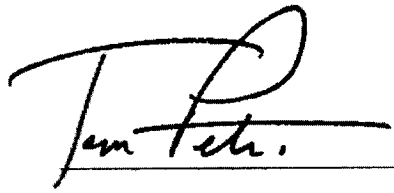





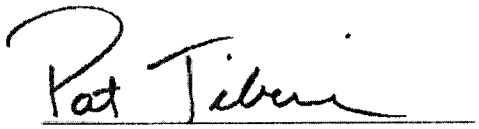



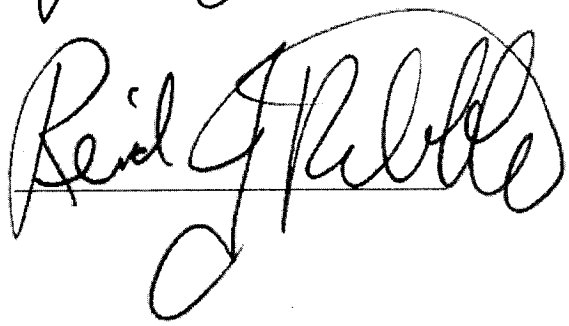


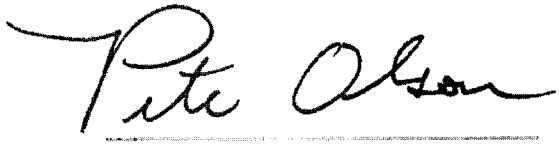












List of Signatures

1. Rep. Bob Latta
2. Rep. John Barrow
3. Rep. James Lankford
4. Rep. Andy Harris
5. Rep. Steve Austria
6. Rep. Jason Altmire
7. Rep. Bob Gibbs
8. Rep. Bill Johnson
9. Rep. David McKinley
10. Rep. Brett Guthrie
11. Rep. Rob Bishop
12. Rep. James Renacci
13. Rep. Jeff Duncan
14. Rep. Marsha Blackburn
15. Rep. Bill Shuster
16. Rep. Sue Myrick
17. Rep. Tim Murphy
18. Rep. Todd Rokita
19. Rep. Harold Rogers
20. Rep. Lynn Westmoreland
21. Rep. Shelley Moore Capito
22. Rep. Jo Ann Emerson
23. Rep. Bob Goodlatte
24. Rep. Robert Aderholt
25. Rep. Michele Bachmann
26. Rep. Larry Kissell
27. Rep. Bill Flores
28. Rep. Bill Huizenga
29. Rep. H. Morgan Griffith
30. Rep. Tim Scott
31. Rep. Steve King
32. Rep. Mark Critz
33. Rep. Steve Stivers
34. Rep. Billy Long
35. Rep. John Kline
36. Rep. Don Young
37. Rep. Rick Crawford
38. Rep. Jim Matheson
39. Rep. Louie Gohmert

40. Rep. Spencer Bachus
41. Rep. Sanford D. Bishop, Jr.
42. Rep. Tom Petri
43. Rep. Joseph Pitts
44. Rep. Peter Roskam
45. Rep. Pat Tiberi
46. Rep. Reid Ribble
47. Rep. Pete Olson

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 14 2013

OFFICE OF
AIR AND RADIATION

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of November 21, 2012, co-signed by 46 of your colleagues, to U.S. Environmental Protection Agency Administrator Lisa P. Jackson, regarding the agency's review of the National Ambient Air Quality Standards (NAAQS) for particulate matter. The Administrator asked me to respond on her behalf.

On December 14, 2012, the EPA took important steps to protect the health of Americans from fine particle pollution by strengthening the primary annual standard for fine particles ($PM_{2.5}$) to 12.0 micrograms per cubic meter ($\mu g/m^3$) and retaining the 24-hour fine particle standard of 35 $\mu g/m^3$. The agency also retained the existing standards for coarse particle pollution (PM_{10}). The strengthened annual $PM_{2.5}$ standard will provide increased public health protection from a range of serious adverse impacts, including premature death and harmful effects on the cardiovascular system, and decrease hospital admissions and emergency department visits for heart attacks, strokes and asthma attacks.

Importantly, emissions reductions from EPA, state and local rules already on the books will help 99 percent of counties with monitors meet the revised $PM_{2.5}$ standards without additional emissions reductions. These rules include clean diesel rules for vehicles and fuels, and rules to reduce pollution from power plants, locomotives and marine vessels, among others. The EPA estimates that meeting the new fine particle standard will provide health benefits worth an estimated $4 billion to $9.1 billion per year in 2020 – a return of $12 to $171 for every dollar invested in pollution reduction.

Your comments and recommendations on the proposed rule were included in the public docket for this rulemaking and were considered, along with other public comments on the proposal, in the final decision-making process.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Cheryl Mackay in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

Gina McCarthy
Assistant Administrator

BOB GIBBS
7TH DISTRICT, OHIO

329 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6265

110 COTTAGE STREET
ASHLAND, OH 44805
(419) 207-0650

Congress of the United States
House of Representatives
Washington, DC 20515–3507

TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCOMMITTEES
CHAIRMAN
WATER RESOURCES AND ENVIRONMENT
HIGHWAYS AND TRANSIT
RAILROAD, PIPELINES AND HAZARDOUS MATERIALS

AGRICULTURE COMMITTEE
SUBCOMMITTEES
CONSERVATION, ENERGY AND FORESTRY
GENERAL FARM COMMODITIES AND RISK MANAGEMENT
DEPARTMENT OPERATIONS, OVERSIGHT, AND NUTRITION

The Honorable Bob Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC 20460

Dear Acting Administrator Perciasepe:

On Tuesday, April 9th, the Environmental Protection Agency announced that they mistakenly released private information of thousands of farmers to environmental groups. We are dismayed by the total lack of regard for the protection and safety of the famers, their families, and their property.

In 2011, the EPA proposed a rule that requires contained animal feeding operations (CAFO's) owners to provide the EPA with specific information on their operation, such as location, and their personal contact information. However, due to backlash regarding privacy concerns the EPA withdrew their rule in July of 2012 and decided to work with state agencies to obtain pertinent information. In October 2012, three environmental groups filed a freedom of information (FOIA) request to the EPA for all information gathered related to CAFO's.

In response to the request the EPA haphazardly released the information they had collected from over 30 states. Instead of ensuring that all the private information was redacted before releasing to the public, the EPA only redacted information from ten of the states. The information EPA released also included private information on farmers that were not designated CAFO's and therefore exempt from having to report any of their information.

Even more concerning is the information that the EPA released include the personal home addresses, telephone numbers, and email addresses of the farmers. This information goes beyond what public information is available on CAFO operations. Although the EPA requested the information back from the groups that they released, there is no way of knowing what was done with this information, or if it was stored for later use.

This incompetent, or deliberate, release has placed the CAFO's and their owners at the risk of possible vigilantes. We demand that you hold a full investigation into how such an error could have been made and hold those responsible fully accountable.

We demand a copy of your entire investigation into this matter as well as what you are going to do to protect the farmers who have done nothing wrong. The EPA has made an egregious error

in not following through on their due diligence and we demand to know what steps you are taking to ensure this never happens again.

We expect a full response on this issue no later than April 26th, 2013.

Sincerely,

Bob Gibbs
Member of Congress

Steve Stivers
Member of Congress

Jim Jordan
Member of Congress

Stephen Fincher
Member of Congress

Vicky Hartzler
Member of Congress

Michael Turner
Member of Congress

Robert Latta
Member of Congress

Scott DeJarlais
Member of Congress

Patrick Tiberi
Member of Congress

Steve Daines
Member of Congress

Brad Wenstrup
Member of Congress

Bill Johnson
Member of Congress

Kristi Noem
Member of Congress

Rodney Davis
Member of Congress

Ted Yoho (FL-03)
Member of Congress

Michael Conaway
Member of Congress

Bob Goodlatte
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 15 2013

OFFICE OF WATER

The Honorable Pat Tiberi
House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter to the U.S. Environmental Protection Agency expressing concerns about the EPA's recent release of data on concentrated animal feeding operations pursuant to the Freedom of Information Act.

The EPA treats with utmost seriousness the importance of protecting the privacy of Americans recognized by the FOIA, the Privacy Act, and the EPA's Privacy Policy. In recognition of the concerns raised by the animal agricultural industry, the EPA engaged in an exhaustive review of the EPA's FOIA response to determine whether, as the agency had understood, the information the EPA released is publicly available, and whether any revisions to the agency's determination to release the information is warranted under the privacy exemption (Exemption 6) of the FOIA.

As a result of this comprehensive review, we have determined that, of the twenty-nine states[1] for which the EPA released information, all of the information from nineteen of the states is either available to the public on the EPA's or states' websites, is subject to mandatory disclosure under state or federal law, or does not contain data that implicated a privacy interest. The data from these nineteen states is therefore not subject to withholding under the privacy protections of FOIA Exemption 6. The EPA has determined that some personal information received from the ten remaining states[2] is subject to Exemption 6.

The EPA has thoroughly evaluated every data element from each of these ten states and concluded that personal information – i.e., personal names, phone numbers, email addresses, individual mailing addresses (as opposed to business addresses) and some notes related to personal matters – implicates a privacy interest that outweighs any public interest in disclosure.

We amended our FOIA response to redact portions of the data provided by these ten states. The redacted portions include telephone numbers, email addresses, and notations that relate to personal matters. They also include the names and addresses of individuals (as opposed to business facility names and locations, though facility names that include individuals' names have been redacted). We believe that this amended FOIA response continues to serve its intended purpose to provide basic location and other information about animal feeding operations, in order to serve the public interest of ensuring that the EPA effectively

[1] The twenty-nine states are: Alabama, Arkansas, Arizona, Colorado, Florida, Georgia, Iowa, Illinois, Indiana, Louisiana, Maryland, Maine, Michigan, Missouri, Montana, North Carolina, North Dakota, Nebraska, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming.
[2] The ten remaining states are: Arizona, Colorado, Georgia, Indiana, Illinois, Michigan, Montana, Nebraska, Ohio, and Utah.

implements its programs to protect water quality, while addressing the privacy interests of the agricultural community.

The EPA has delivered the amended data to the FOIA requestors, and has also provided copies to representatives of the animal agricultural industry. In addition, the EPA requested that the previous data releases be returned to the agency, and all the original requestors subsequently complied with this request. The agency has asked agricultural stakeholder groups to report to the EPA if any activities happen on their farms that they believe directly resulted from this FOIA release.

The information that was released pursuant to the FOIA requests contained information on both AFOs and CAFOs. Though the EPA's request to states only pertained to information on permitted and unpermitted CAFOs, some states also provided information on additional animal feeding operations. Animal feeding operations are defined differently by the EPA and by each individual state. For instance, sometimes the term AFO is used to mean all livestock operations regardless of size, and sometimes it is used to mean only small operations. Similarly, sometimes the term CAFO is used to mean all livestock operations regardless of size, and sometimes it is used to mean only large operations that meet federal animal unit thresholds.

Our understanding was that the FOIA requestors were asking us for all of the releasable animal feeding operation information the agency had collected from the states regardless of how the EPA or the states would categorize it. Accordingly, the EPA gave the requestors all the releasable data the states gave the agency. One FOIA request stated "all records relating to and/or identifying sources of information about CAFOs, including the AFOs themselves, and the EPA's proposed and intended data collection process for gathering that information.[3]" Two other FOIA requests stated "all records...relating to the EPA's withdrawal of the proposed NPDES CAFO Reporting Rule...," including, "any records providing factual information concerning the completeness, accuracy, and public accessibility of states CAFO information...[4]"

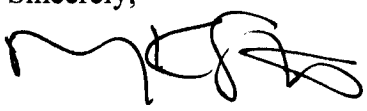
The agency is also working to ensure that any future FOIA requests for similar information are reviewed carefully to ensure that privacy-related information is protected to the extent required by FOIA. More specifically, key leaders in our Office of Environmental Information and FOIA experts are developing training for all agency employees, including those in the Office of Water (OW), on the agency's obligations under the FOIA and responding to FOIA requestors. The training will focus on all aspects of processing a FOIA request, including how to properly safeguard information that may be exempt from mandatory disclosures, and will become a regular practice to agency personnel.

Again, thank you for your letter. The EPA is committed to conducting its activities with the highest legal and ethical standards and in the public interest. If you have further questions, or you desire further

[3] FOIA request from Eve Gartner of Earthjustice. Dated September 11, 2012
[4] FOIA request from Jon Devine of NRDC and Karen Steuer of Pew. Dated October 24, 2012

information in connection with this subject, EPA staff will work with your staff to accommodate any such interest. Please contact me or your staff may call Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at 202-564-0255.

Sincerely,



Nancy K. Stoner
Acting Assistant Administrator

1110337

Congress of the United States
Washington, DC 20515

April 16, 2013

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama:

The ENERGY STAR program has been very successful in helping consumers identify energy efficient products that are affordable and provide a reasonable return on investment. This is especially true for energy efficient windows, doors and skylights. By upgrading products, home owners are saving up to 15 percent on home energy bills and reducing their carbon footprint.

With this in mind, we are concerned that proposed ENERGY STAR standards for windows, doors and skylights may fail to consider cost effectiveness as a criterion. Historically, this program has been guided by a balance of energy efficiency, cost effectiveness and product performance.

We believe the new standards under development are rightfully focused on driving energy efficiency, but fail to consider the cost benefit ratio and payback period for consumers. In short, the proposed standards would remove the economic incentive for consumers to purchase energy efficient products.

Replacing single pane windows continues to be the "low the hanging fruit" when retrofitting a home for greatest energy efficiency gains. Significant energy savings can be achieved by the replacement of these windows with higher efficiency models. Over the last 15 years, ENERGY STAR windows have become the industry standard for helping consumers identify energy efficiency products that provide a reasonable return on their investment.

If the ENERY STAR program moves to a standard that fails to properly consider cost effectiveness as criteria, we are concerned that the result could be significant cost increases, longer payback periods and a missed opportunity to capture energy savings.

We respectfully request that EPA reexamine the proposed ENERGY STAR specifications for windows, doors and skylights to ensure that they are consistent with the guiding principles of the program so that it remains relevant in the marketplace.

We appreciate your prompt attention to this matter.

Sincerely,

PETER WELCH
Member of Congress

DAVID MCKINLEY
Member of Congress

BETTY MCCOLLUM
Member of Congress

COLLIN PETERSON
Member of Congress

BILL JOHNSON
Member of Congress

PATRICK TIBERI
Member of Congress

DAVE LOEBSACK
Member of Congress

TOM LATHAM
Member of Congress

KURT SCHRADER
Member of Congress

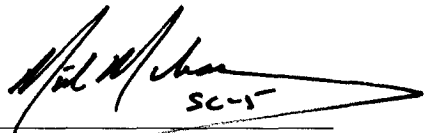
TOM PETRI
Member of Congress

EARL BLUMENAUER
Member of Congress

SEAN DUFFY
Member of Congress

GREG WALDEN
Member of Congress

STEVE CHABOT
Member of Congress



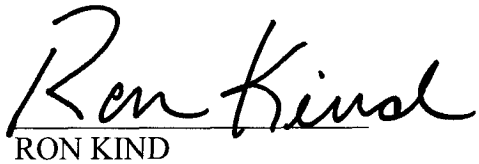
MICK MULVANEY
Member of Congress

BILLY LONG
Member of Congress

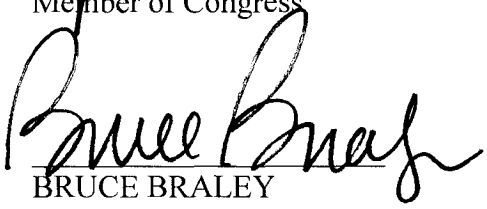
BOB LATTA
Member of Congress

ERIK PAULSEN
Member of Congress

JIM MORAN
Member of Congress

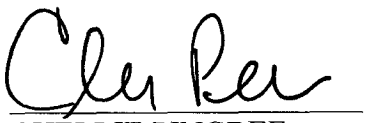


RON KIND
Member of Congress



BRUCE BRALEY
Member of Congress

AARON SCHOCK
Member of Congress



CHELLIE PINGREE
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 10 2013

OFFICE OF
AIR AND RADIATION

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Tiberi:

Thank you for your letter of April 16, 2013, to President Obama regarding your concerns about the proposed changes to the ENERGY STAR program specifications for windows, doors, and skylights.

The U.S. Environmental Protection Agency is currently developing detailed responses to stakeholder comments on the most recent specification proposal (Draft 2) of ENERGY STAR Windows, Doors and Skylights. The EPA has met with many stakeholders and received a variety of comments, ranging from those supportive of the proposal to those expressing concerns about the stringency of the new specification. The EPA plans to release the next draft of the specification in the coming weeks and will provide for a final comment period.

The agency expects that the next draft will contain a number of modifications in response to stakeholder feedback, including delaying the proposed implementation date to January 15, 2015, adjusting the proposed Window specifications for the North-Central and South-Central zones, and revising the proposed Skylight specifications. The EPA is still in the process of re-evaluating the proposed Northern Zone specification. Along with the next draft, the agency will provide detailed responses to stakeholder comments.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Cheryl Mackay in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

Gina McCarthy
Assistant Administrator

Congress of the United States

Washington, DC 20515

June 17, 2013

Administrator Robert Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

Dear Administrator Perciasepe:

We are seeking clarification regarding the Environmental Protection Agency's (EPA) New Source Performance Standard (NSPS), Subpart UUU (40CFR, Part 60) for Calciners and Dryers in Mineral Processing Industries and recent enforcement actions against U.S. foundries. Specifically, we are concerned about why: a) EPA is enforcing the provisions of Subpart UUU against foundries when it never intended to include these type of facilities as a source category since metalcasting is not a mineral processing industry; and, b) why EPA has failed to promulgate an exemption for foundries from NSPS, Subpart UUU consistent with the original intent of the rule.

It is our understanding that it was not the EPA's intention to subject the foundry industry to this NSPS rule as metal casting is a separate industry from the mineral processers that Subpart UUU was intended to regulate. Furthermore, the original NSPS, Subpart UUU rule which was finalized in September 1992, did not list foundries as an affected industry nor did it designate applicable foundry Standard Industrial Classification (SIC) codes.

On April 22, 2008 (73 Fed. Reg. 21559), EPA proposed a regulation to specifically exempt foundries from the requirements of Subpart UUU (in part because the Agency never intended to cover foundries). The proposed regulatory language that EPA agreed to stated that, "processes used solely for the reclamation and reuse of industrial sand from metal foundries" shall be exempt from the requirements of Subpart UUU in the final rule. In April 2009 (74 Fed. Reg. 19294), EPA issued the final rule for Subpart OOO and noted in the preamble that it was not taking final action on the proposed revisions to Subpart UUU. It is our understanding that in subsequent discussions with EPA officials following the decision to take no final action on the exemption for foundries, EPA enforcement officials agreed that the Agency would not initiate enforcement actions against foundries for Subpart UUU requirements and would address the issue with individual facilities at the time of permit renewal.

In addition, EPA regions across the country have taken inconsistent positions on whether Subpart UUU should apply to foundry sand reclamation and reuse processes at foundries. Recently EPA Region V has initiated enforcement actions against foundries that included violations of Subpart UUU requirements. Although the recent enforcement actions are currently limited in geographic

scope to this region, we have significant concerns that enforcement efforts will be expanded to other areas in the country. As the EPA originally intended to exempt foundries from this regulation, we believe this new enforcement action is misguided.

EPA's recent efforts to impose Subpart UUU requirements on units used solely for the reclamation and reuse of industrial sand from foundries creates an unnecessary regulatory burden, uncertainty and increased costs for foundries. EPA Region V has initiated enforcement actions, even though the record is clear that Subpart UUU should not apply to foundries. By way of background, foundries are essential to the U.S. economy. Every sector relies on metal castings, with 90 percent of all manufactured goods and capital equipment incorporating engineered castings into their makeup. They produce castings that are integral to the automotive, construction, energy, aerospace, agriculture, plumbing, manufacturing, and national defense sectors. The American foundry industry provides employment for over 200,000 men and women directly and sustains thousands of other jobs indirectly. The industry supports a payroll of more than $8 billion and sales of more than $36 billion annually. Metalcasting plants are found in every state, and the industry is made up of predominately small businesses. Approximately 80 percent of domestic metalcasters have fewer than 100 employees.

Foundries utilize millions of tons of sand each year – these processing units serve to reclaim and reuse the sand. This process should be encouraged because they provide significant environmental benefits. Additionally, sand systems at foundries are already controlled by other air regulations.

It is clear to us that EPA's original rule did not intend for foundries to have to comply with NSPS, Subpart UUU. Consistent with its original intent of Subpart UUU, EPA must finalize a regulation to exempt foundries from the applicability of this regulation. Please provide a detailed explanation of how and when EPA plans to promulgate an exemption for foundries from NSPS, Subpart UUU. We appreciate your attention to this matter and look forward to your timely response.

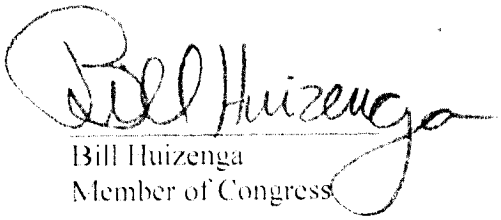
Sincerely,

Chuck Fleischmann
Member of Congress

Gary Peters
Member of Congress

Phil Roe
Member of Congress

Joe Barton
Member of Congress

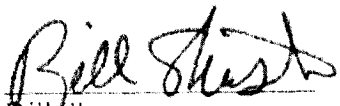


Bill Huizenga
Member of Congress

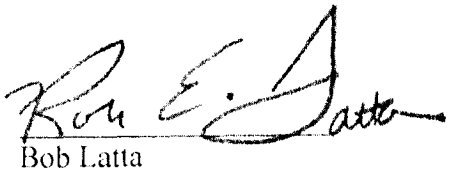
Dan Benishek
Member of Congress

Paul Broun
Member of Congress

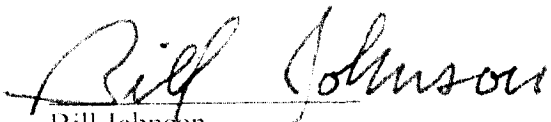
Lou Barletta
Member of Congress



Bill Shuster
Member of Congress

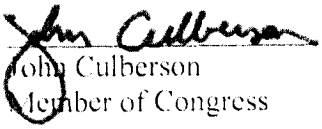


Bob Latta
Member of Congress

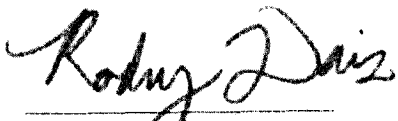


Bill Johnson
Member of Congress

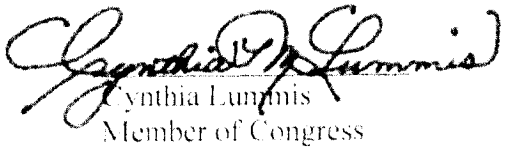
Hal Rogers
Member of Congress



John Culberson
Member of Congress



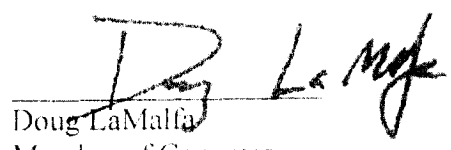
Rodney Davis
Member of Congress



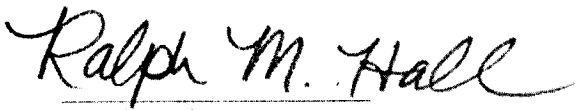
Cynthia Lummis
Member of Congress

Tim Huelskamp
Member of Congress

Andy Harris
Member of Congress



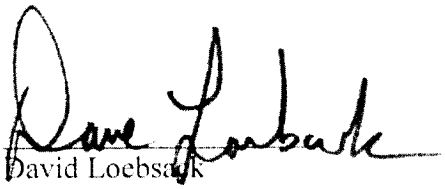
Doug LaMalfa
Member of Congress



Ralph Hall
Member of Congress

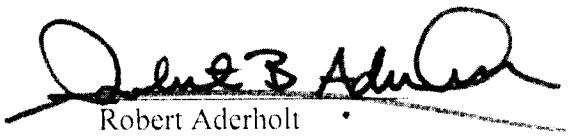
Larry Bucshon
Member of Congress

Reid Ribble
Member of Congress



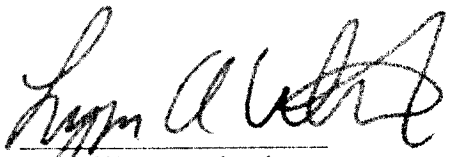
David Loebsack
Member of Congress

Mario Diaz-Balart
Member of Congress

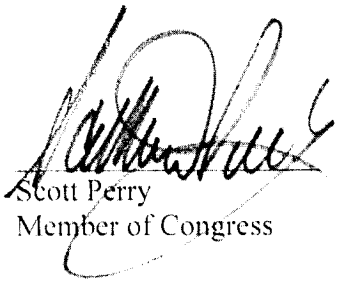


Robert Aderholt
Member of Congress

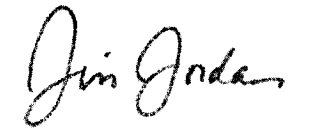
Marsha Blackburn
Member of Congress



Lynn Westmoreland
Member of Congress

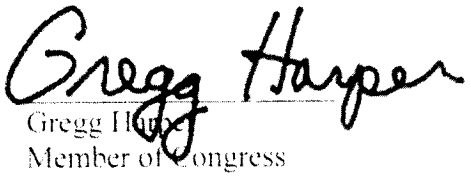


Scott Perry
Member of Congress



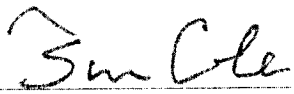
Jim Jordan
Member of Congress

Scott DesJarlais
Member of Congress



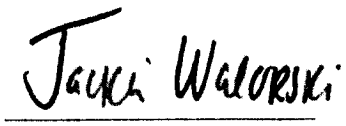
Gregg Harper
Member of Congress

Tom Graves
Member of Congress

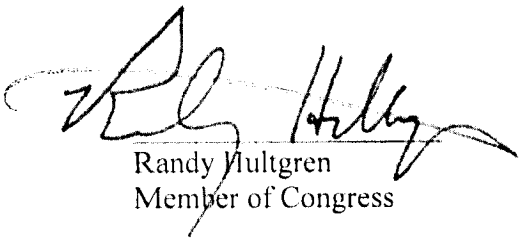


Tom Cole
Member of Congress

Susan Brooks
Member of Congress



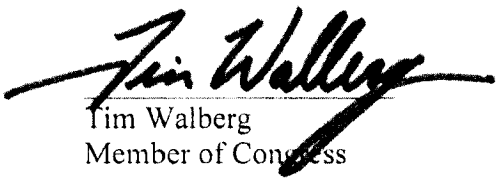
Jackie Walorski
Member of Congress



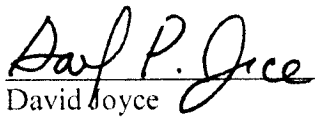
Randy Hultgren
Member of Congress

Steven Palazzo
Member of Congress

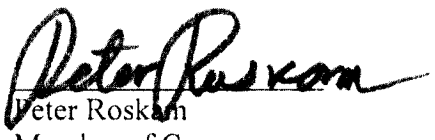
Mark Amodei
Member of Congress



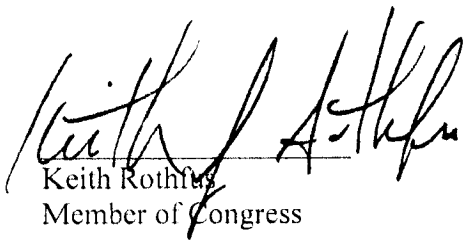
Tim Walberg
Member of Congress



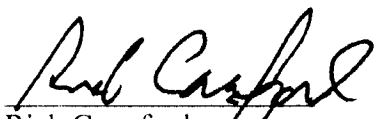
David Joyce
Member of Congress



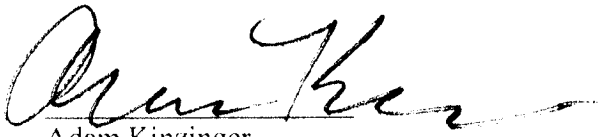
Peter Roskam
Member of Congress



Keith Rothfus
Member of Congress

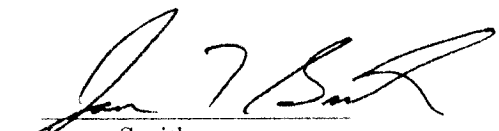


Rick Crawford
Member of Congress

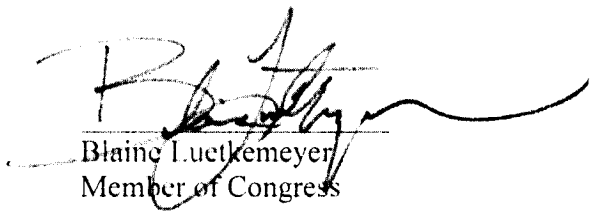


Adam Kinzinger
Member of Congress

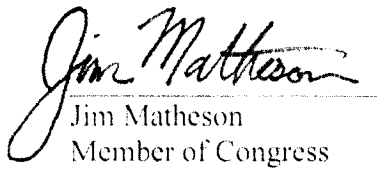
Billy Long
Member of Congress



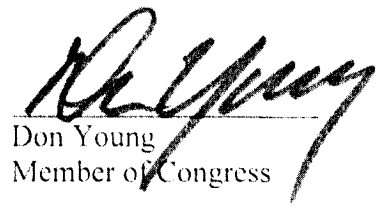
Jason Smith
Member of Congress



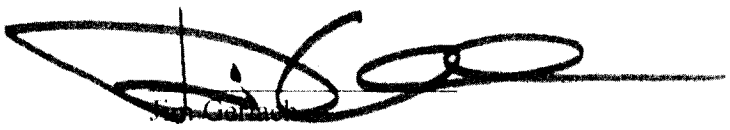
Blaine Luetkemeyer
Member of Congress



Jim Matheson
Member of Congress

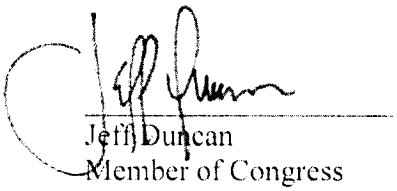


Don Young
Member of Congress

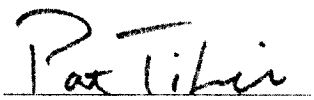


Member of Congress

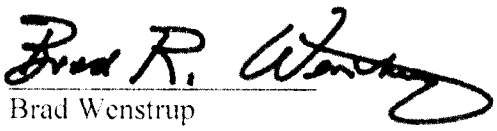
Patrick Meehan
Member of Congress



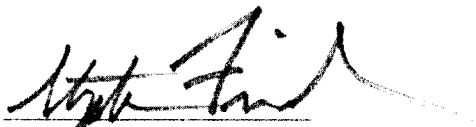
Jeff Duncan
Member of Congress



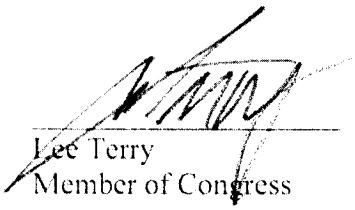
Pat Tiberi
Member of Congress



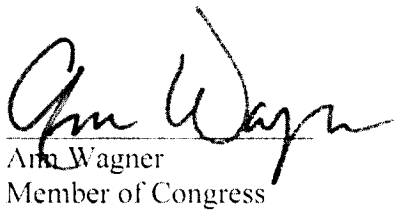
Brad Wenstrup
Member of Congress



Stephen Fincher
Member of Congress



Lee Terry
Member of Congress

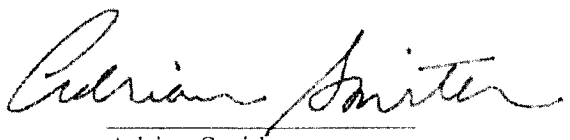


Ann Wagner
Member of Congress

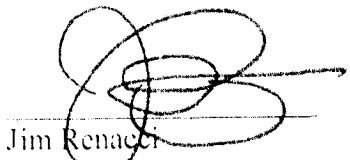
Louie Gohmert
Member of Congress

Charlie Dent
Member of Congress

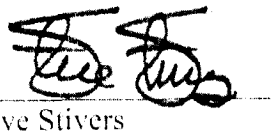
Shelley Moore Capito
Member of Congress



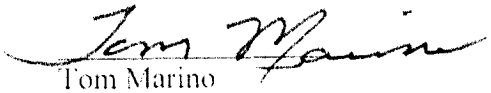
Adrian Smith
Member of Congress



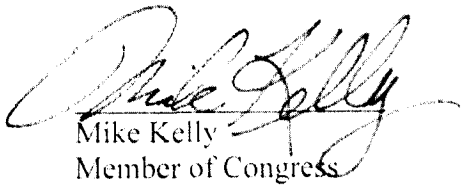
Jim Renacci
Member of Congress



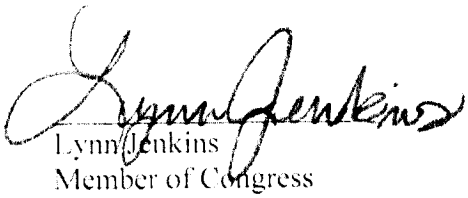
Steve Stivers
Member of Congress



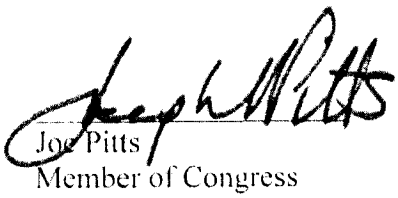
Tom Marino
Member of Congress



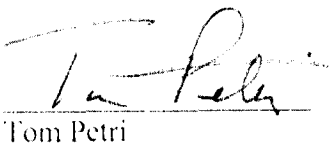
Mike Kelly
Member of Congress



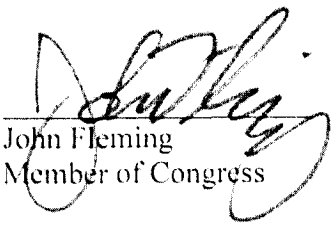
Lynn Jenkins
Member of Congress



Joe Pitts
Member of Congress

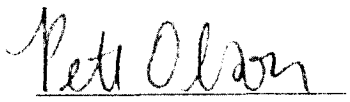


Tom Petri
Member of Congress

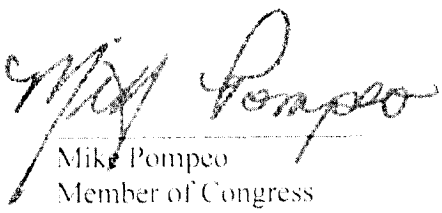


John Fleming
Member of Congress

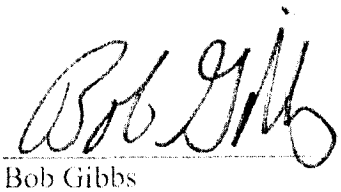
Diane Black
Member of Congress



Pete Olson
Member of Congress

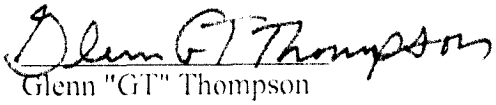


Mike Pompeo
Member of Congress



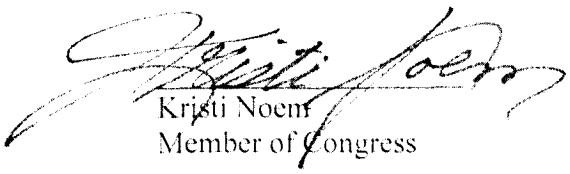
Bob Gibbs
Member of Congress

Michael Turner
Member of Congress



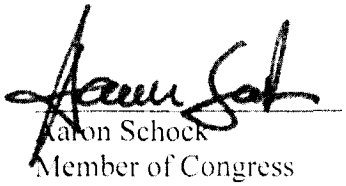
Glenn "GT" Thompson
Member of Congress

Vern Buchanan
Member of Congress

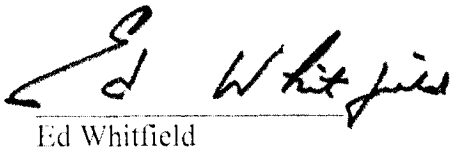


Kristi Noem
Member of Congress

Steve Chabot
Member of Congress



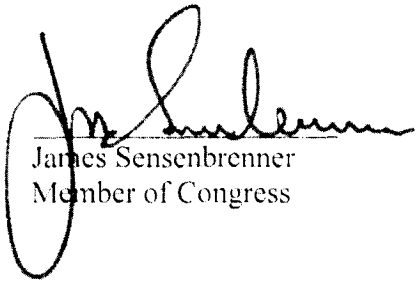
Aaron Schock
Member of Congress



Ed Whitfield
Member of Congress

Blake Farenthold
Member of Congress

Sean Duffy
Member of Congress



James Sensenbrenner
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 21 2013

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your June 17, 2013, letter to the U.S. Environmental Protection Agency regarding the Clean Air Act (CAA) New Source Performance Standards (NSPS) for Calciners and Dryers in the Mineral Processing Industries (40 CFR, Part 60), and the application of these standards to certain foundry operations. I welcome the opportunity to explain how the EPA addresses probable violations of the NSPS.

By way of background, the NSPS Subpart UUU applies to any facility which processes "industrial sand" in "calciners and dryers." As early as 1986, the EPA stated in the preamble to the Notice of Proposed Rulemaking that the rule ". . . would apply to new, modified, and reconstructed calciners and dryers at mineral processing plants." In both the proposed and the final rules, the EPA defined a mineral processing plant as ". . . any facility that processes or produces any of the following minerals . . . ." In the preamble and in the final rule, the EPA listed "industrial sand" as one of the listed minerals, and broadly defined the affected facility, "dryer," as ". . . the equipment used to remove uncombined (free) water from mineral material through direct or indirect heating." As a result, where foundries process the listed mineral "industrial sand," they meet the definition of "mineral processing plant," and the "calciners and dryers" that are used by these foundries to process the industrial sand are subject to NSPS Subpart UUU.

The National Industrial Sand Association confirms, on its website, that foundries are one of the primary users of the listed mineral industrial sand, stating that ". . . [i]ndustrial sand is an essential part of the ferrous and non-ferrous foundry industry." The Association goes on to further state that ". . . core sand can be thermally or mechanically recycled . . . ."

In April 2008, as part of the EPA's proposed amendments to the NSPS for Nonmetallic Mineral Processing Plants (Subpart OOO), we requested public comment on the applicability of Subpart UUU to sand and reclamation processes at metal foundries. The addition of this language in the Subpart OOO proposal coincided with inquiries regarding this issue by foundry industry representatives at that time. After further consideration, the EPA determined, for the reasons discussed above, that our prior interpretation that Subpart UUU applied to calciners and dryers processing industrial sand at foundries was correct. In addition, it was also determined that Subpart OOO was not the appropriate vehicle to take action on this matter because that Subpart dealt with a different industry sector.

Consequently, the EPA decided at that time that no further action to amend Subpart UUU, or otherwise change its applicability criteria, was necessary or appropriate. Should the agency decide to re-evaluate the applicability of this rule, it would generally do so under Section 111(b)(1)(B) of the CAA, which authorizes the agency to revise the NSPS from time-to-time. Subpart UUU is not currently scheduled for review under Section 111(b)(1)(B) of the CAA.

Based on the above rationale, the EPA is currently taking enforcement action in the EPA Region 5 for identified violations of NSPS Subpart UUU at subject foundries. There are 138 iron and steel foundries in Region 5. In the last two years, Region 5 has conducted compliance evaluations at 39 of these foundries and, thus far, has found 11 to be in violation of the Clean Air Act; only 3 of the 11 cases included violations of Subpart UUU. To remedy the currently identified Subpart UUU violations, the 3 affected facilities have agreed to conduct some additional testing. Thus far, no penalties have been assessed for the NSPS Subpart UUU violations.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Pamela Janifer in the EPA Office of Congressional and Intergovernmental Relations at (202) 564-6969.

Sincerely,

Cynthia Giles

Congress of the United States
Washington, DC 20515

August 1, 2013

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy,

We write with concern about the Environmental Protection Agency's (EPA) proposed change to the Definition of Solid Waste (DSW) under the Resource Conservation and Recovery Act (RCRA) on electroplating operations and the adverse effect these regulatory changes could have on the recycling of copper and other valuable secondary materials. These materials are a recyclable commodity that is of great importance to electronics manufacturers in our states who would be significantly impacted by the proposed rulemaking at the EPA.

We urge you to retain the current flexibility under the DSW rule that facilitates and encourages the recycling of valuable materials by easing regulatory burdens on the beneficial reuse of valuable industrial byproducts, especially for secondary material from electroplating operations with high value copper content. We believe such an approach is consistent with the spirit of RCRA.

This valuable manufacturing byproduct is one of the largest domestic sources of untapped metal-bearing secondary materials amenable to recycling and reclamation. The copper found in electroplating sludges can be recovered at less cost and far less environmental impact that mining raw copper ore, which generally contains less than 1 percent copper. However, the economics and practicalities of recycling electroplating sludge require that this recycling be undertaken offsite, as most electroplating operations do not have the volume, space or environmental permits to allow onsite recycling. It is over burdensome to expect small manufactures to retain all materials onsite least they come under a regulatory regime which is costly and time consuming.

Offsite transport and recycling would have been permitted under the EPA DSW regulation finalized in 2008, but the revisions to the regulations currently under final review within the Administration would prohibit that practice. Continued treatment of these materials as hazardous waste creates an economic disincentive for recycling and can lead to disposal in landfills rather than encouraging recycling a valuable recyclable resource. This process has an overall negative environmental impact rather than encouraging conservation of materials.

The remanufacturing exclusion, as included in the 2011 proposed DSW rule, should be expanded to include at least some metal-bearing hazardous secondary materials, such as F006. Broadening the remanufacturing exclusion will encourage the recycling of high value secondary materials that otherwise would be disposed of in a landfill.

It is unfortunate, then, that the regulations being advanced by EPA under the specific law designed to promote "Resource Conservation and Recovery" now serve to discourage those very activities. We urge you to bring the regulations back in line with the spirit of RCRA by providing

flexibility with respect to the transfer-based exclusion similar to the 2008 DSW rule, or by including a remanufacturing exclusion for high-value metal-bearing secondary materials such as F006.

We appreciate your timely consideration of this matter.

Sincerely,

Bill Johnson

Brad Schneider

Jeff Duncan

Virginia Foxx

Mike Rogers

Michael T. McCaul

Dan Burton

Dave Reichert

Pat Tiberi

Mike Coffman

Dan Burton

Lee Terry

Michael T. McCaul

Ileana Ros-Lehtinen

cc: Howard A. Shelanski, Administrator-Designate, OIRA, Office of Management and Budget

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 12 2013

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of August 1, 2013, to the U.S. Environmental Protection Agency (EPA) Administrator Gina McCarthy regarding the proposed Definition of Solid Waste rulemaking and how the proposed changes to the regulations may affect electroplating operations and electroplating sludges. I appreciate your interest in these issues.

The EPA has long worked with representatives of the electroplating industry to find solutions for the management of their sludges that maximize opportunities for recovering valuable metals for reuse under the Resource Conservation and Recovery Act while also protecting human health and the environment from exposure to the toxic constituents contained in those materials. The EPA is still considering how to proceed in finalizing the Definition of Solid Waste rulemaking and will continue to balance the need to recover materials for reuse with protection of human health and the environment.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 3 1 2014

OFFICE OF
AIR AND RADIATION

The Honorable Patrick J. Tiberi
Member, U.S. House of Representatives
5000 Corporate Exchange Drive
Suite 310
Columbus, Ohio 43231

Dear Congressman Tiberi:

Thank you for your May 23, 2014, letter regarding Gerling and Associates, Inc., concerning their interest in gaining SmartWay approval of their television production trailers. Gerling and Associates manufactures specialty trailers which are custom built for television sports coverage and broadcasting.

I understand Mr. Gerling and Michael McLean, of your staff, spoke with representatives from the SmartWay Technology Program on August 27, 2014. Dennis Johnson, Sam Waltzer, and Julie Hawkins of my staff addressed Mr. Gerling's questions and explained the differences between the Federal and State programs for trailer fuel-saving technologies. I also understand that my staff got input on the challenges of specialty trailer builders. Since then, my staff has followed-up with Mr. Gerling to provide further assistance.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at lewis.josh@epa.gov or (202) 564-2095.

Sincerely

Janet G. McCabe
Acting Assistant Administrator

14-000-0289

PATRICK J. TIBERI

COMMITTEE ON
WAYS AND MEANS

CHAIRMAN, SUBCOMMITTEE ON
SELECT REVENUE MEASURES

SUBCOMMITTEE ON SOCIAL SECURITY

COLUMBUS OFFICE:
[illegible] CORPORATE EXCHANGE DRIVE
SUITE 310
COLUMBUS, OH 43231
Phone: (614) 523-2555
Fax: (614) 818-0807

WASHINGTON OFFICE:
106 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3512
Phone: (202) 225-5355
Fax: (202) 226-0523

http://tiberi.house.gov

Congress of the United States

House of Representatives

September 30, 2013

Ms. Susan Hedman, Regional Administrator
Environmental Protection Agency
US EPA Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604-3590

Dear Ms. Hedman:

The attached communication concerns a request my constituent has forwarded to me which is under the jurisdiction of your office.

Please look into the statements contained within the attached documents and forward me the necessary information for reply. Please address your reply to my district office as listed above.

If you have any questions, please contact Nancy Shaver in my district office at 614-523-2555. Thank you for your time and attention to this matter, and I will look forward to your reply.

Sincerely,

Patrick J. Tiberi
Representative to Congress

PJT/ns

Enclosure

RECEIVED
OCT 18 2013
U.S. EPA REGION 5
OFFICE OF REGIONAL ADMINISTRATOR

AUTHORIZATION FORM

The Honorable Patrick J. Tiberi
3000 Corporate Exchange Drive
Suite 310
Columbus, Ohio 43231
(614) 523-2555

I hereby request Congressman Tiberi's assistance and authorize, under the Privacy Act of 1974, the release of any and all information necessary on my behalf.

(b) (6)

Signatur

Name (p

Address_

Telephor

Cell Pho

Social Se

Veterans

Service #

Other #_

Date of I

In the space provided below, please state the nature of the problem for which you are requesting Congressman Tiberi's assistance.

Please look into the inadequacy of Class II injection wells for disposal of hydraulic horizontal fracturing waste. ODNR's oversight of the UIC program has been inadequate at best.

(Use additional paper if necessary)

OCT 18 2013

U.S. EPA REGION 5
OFFICE OF REGIONAL ADMINISTRATOR

United States Environmental Protection Agency
Regional Administrator
Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

JAN 09 2014

The Honorable Patrick J. Tiberi
Member, U.S. House of
Representatives
3000 Corporate Exchange Drive, Suite 310
Columbus, Ohio 43231

Dear Congressman Tiberi:

Thank you for your September 30, 2013 letter forwarding constituent concerns about disposal of waste fluids from hydraulic fracturing and Ohio's Class II Underground Injection Control (UIC) program.

Since 1983, the regulation of Class II underground injection wells in Ohio has been delegated to the State. EPA regularly evaluates the effectiveness of state UIC programs to ensure that wells do not endanger underground sources of drinking water - - and recently initiated an in-depth review of Ohio's Class II program. During this review process, EPA will be assessing permits, enforcement and compliance actions to determine whether the Ohio Department of Natural Resources is operating the Ohio UIC program in a manner that is consistent with EPA's 1983 delegation. Please see the enclosed letter for details.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Ronna Beckmann or Denise Fortin, the Region 5 Congressional Liaisons, at (312) 886-3000.

Sincerely,

Susan Hedman
Regional Administrator

Enclosure

Congress of the United States
Washington, DC 20515

November 6, 2013

The Honorable Gina McCarthy
EPA Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington DC 20460

RE: Brick MACT

Dear Administrator McCarthy -

We are writing to express our concern regarding the Environmental Protection Agency's (EPA) proposed Maximum Achievable Control Technology (MACT) rule for brick and structural clay processes. This "brick MACT" could jeopardize the economic viability of brick manufacturers and distributors in our states and imperil hundreds of thousands of jobs nationwide. We urge you to exercise the discretion provided by Congress in the Clean Air Act (CAA) to minimize regulatory burdens on the brick industry that do not provide commensurate environmental benefit. We urge EPA to fully consider how such measures would affect public health and the economic vitality of brick manufacturers, distributors, and communities that rely on them for their livelihood.

The brick industry is in a unique situation. In 2003, EPA issued a Brick MACT that the brick industry implemented at a total compliance cost upward of $100 million. Controls installed to comply with the 2003 MACT rule largely remain in operation. This 2003 MACT, however, was vacated in 2007 due to no fault of the brick industry. It is problematic when an industry is subject to two consecutive rounds of technology-based MACT rules, particularly after compliance was attained with the first technology-based MACT. Moreover, we are concerned that the lower emission levels attained from controls installed to comply with the 2003 vacated rule may be used as the baseline for the second MACT and may result in an even more stringent rule than would have been imposed absent the first MACT. This "MACT on MACT" situation could require the costly removal and replacement of still-viable air pollution control devices without producing actual environmental or human health benefits.

On December 7, 2012, EPA published a proposed schedule for a new Brick MACT pursuant to efforts to negotiate a consent decree with the complaintant in the case vacating the 2003 Brick MACT. We understand that EPA has amended this proposed consent decree to add an additional six months to the schedule for the proposed rule. We commend EPA for this decision. This newly proposed schedule envisions a final rule issuance late December of 2014. We urge EPA to continue to review the schedule and identify if and when additional changes to the final schedule should be made.

We respectfully request that EPA use this time to take the steps necessary to promulgate a rule which protects public health and the environment, but does not impose unwarranted burdens on significant portions of the brick industry. We believe such an approach would include the following:

1. **Consideration of Work Practice Standards and Accurate Burden Estimates.** We urge EPA to use the authority in the CAA to consider work practice standards, wherever reasonable, including for the relatively small amount of metal HAP emissions, including mercury. This review should include an assessment of whether work practice standards are warranted for all pollutants not covered by a health-based standard. EPA is currently considering very expensive controls for the minimal amounts of mercury that the industry emits. The brick industry is on the list for MACT development because of acid gasses, not metal emissions, and to absorb crippling control costs to receive minor reductions in the amount of mercury and metals the industry emits may not be justified or even required to meet the requirements of the Clean Air Act. In addition, since EPA's estimated annual compliance costs are significant (running well over $150,000,000 per year) and the rule will impact a substantial number of small businesses, thoughtful consideration of the additional reviews required to comply with the Regulatory Flexibility Act (RFA) are critical. EPA must then develop a thorough Initial Regulatory Flexibility Analysis that assesses the impacts on small businesses and examines less burdensome alternatives. EPA must also provide accurate estimates of the cost and a reasonable determination of the technical feasibility of control devices to meet the standard as an essential part of an initial RFA. We believe work practice standards could both protect the environment and eliminate unwarranted burdens.

2. **Health-based standard.** CAA Section 112(d)(4) allows for consideration of health-based thresholds when establishing MACT standards for a category. While this action is discretionary under the CAA, the unique MACT on MACT situation discussed above, as well as the limited quantity of emissions generated by brick manufacture – especially as compared to other regulated industries subject to recent MACTs -- justify full consideration of the health-based approach for standards set pursuant to this rule. If EPA chooses not to pursue a health-based approach to this regulation, we ask that EPA explain fully why this approach is not reasonable for this industry.

3. **Establish reasonable subcategories.** The CAA provides ample authority for EPA to use its discretion to establish subcategories when evaluating MACT for an industry. We urge EPA to use this discretion to minimize unnecessary "MACT on MACT" impacts for this industry, including the removal of viable air pollution control devices installed in good faith to comply with the 2003 MACT. At a minimum, EPA should maintain the same subcategories as in the 2003 rule. However, EPA should fully explore all potential subcategorization options.

4. **Non-major sources.** As EPA calculates the "MACT floor" for a category of major sources, we urge EPA to follow a literal reading of the CAA, which requires that EPA include only sources within the category when determining the MACT floor for existing sources. At present, we understand that EPA staff has indicated their intention of including sources from outside the category in the floor determination. By CAA definition, the floor determination for existing sources in a source category that includes only major sources should only include major sources. This would exclude all area sources, including "synthetic area sources." Congress made no provision in the CAA for EPA to create a third classification of sources because the definition of "area source" includes all facilities that do not meet the definition of "major source," including "synthetic area" sources. EPA is incorrectly treating this subset of area sources differently from other area sources.

Thank you for considering the incorporation of these environmentally-responsible and cost-conscious approaches as EPA develops the proposed Brick MACT rule. A reasonable standard will ensure that health and environment are protected and that this essential industry can continue to thrive, generate jobs in our states, and help our struggling economy rebound.

Sincerely,

Bill Johnson

Sanford D. Bishop Jr.

Jeri Lewell

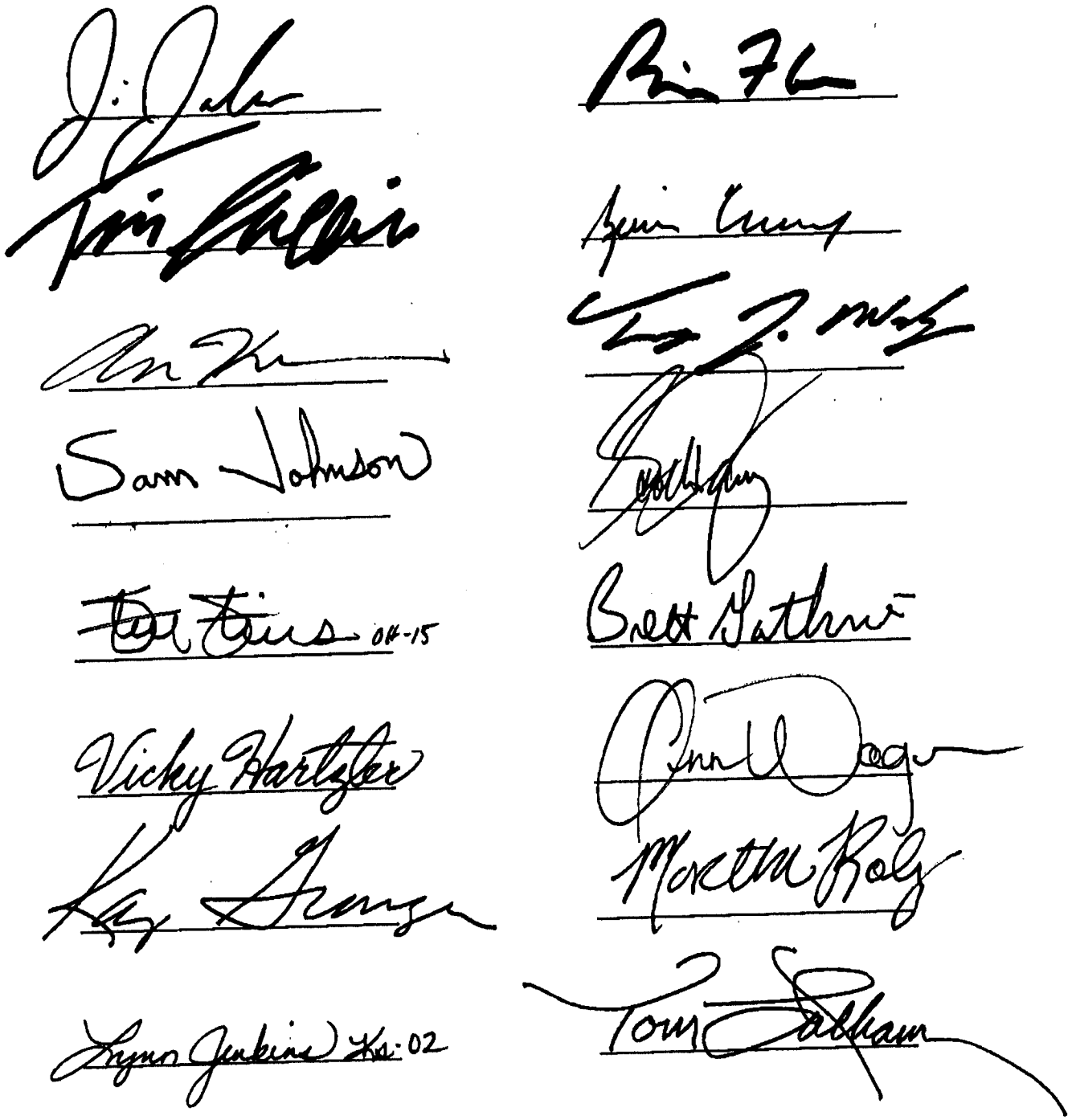
Michele Bachmann

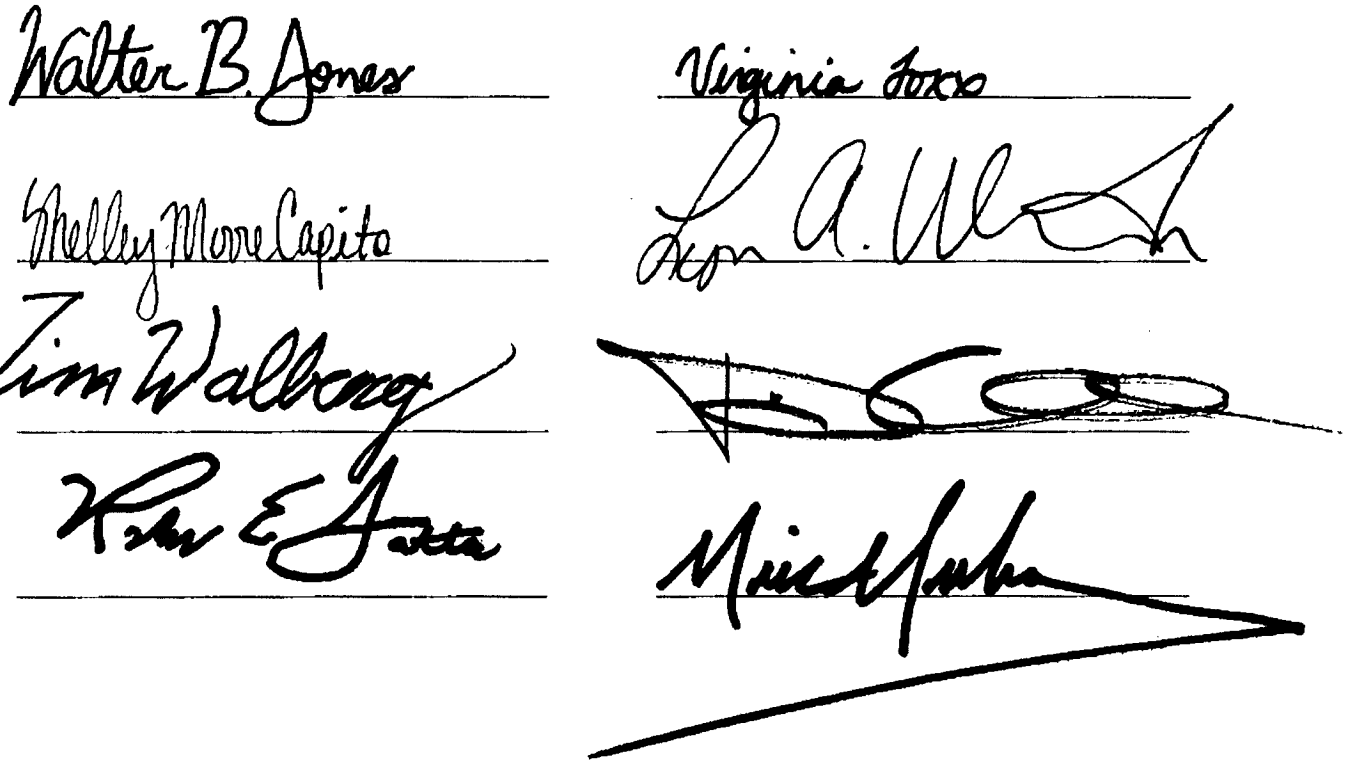
Doug Lamborn

Charles W Dent

John H. Kingston GA-2


Pat Tiberi
Marsha Blackburn
TX-36
Gregg Harper
Richard Hudson
H. Morgan Griffith
Andy Barr
TN-4
Tom Graves
Doug Collins GA-09
Steve Womack
AR-1




Walter B. Jones
Virginia Foxx
Shelley Moore Capito
Jim Walberg

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 10 2014

OFFICE OF
AIR AND RADIATION

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Tiberi:

Thank you for your letter of November 6, 2013, co-signed by 51 of your colleagues, to U.S. Environmental Protection Agency Administrator Gina McCarthy, regarding standards that the EPA is in the process of developing for the brick industry. The Administrator asked that I respond on her behalf.

The EPA is required to set national emissions standards for hazardous air pollutants (NESHAP) under section 112(d) of the Clean Air Act (CAA). As you mention in your letter, although the EPA issued a NESHAP for this industry in 2003, the United States Court of Appeals for the District of Columbia Circuit vacated that rule in 2007. We are in the process of developing a new rule in response to the vacatur. The brick and structural clay manufacturing industry remains unregulated under CAA section 112(d) because no federal 112(d) standard is in place. Sources in this industry emit a number of air toxics, including hydrogen fluoride, hydrogen chloride and toxic metals (such as antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead and selenium).

Your letter asks that the EPA consider work practice standards, wherever reasonable, and that we assess the cost impacts that the proposed standards will have on the brick industry. We agree that in some cases work practices may be appropriate, and we are assessing the potential use of work practice standards where it is reasonable and consistent with the requirements of the CAA. The EPA analyzes the costs that may be associated with all proposed rules and will conduct a regulatory impact analysis (RIA) to thoroughly assess the impacts.

Your letter also asks that we consider health-based standards and that we use our discretion to establish subcategories. We are aware of the brick industry's desire that we set health-based standards and we will consider them as we develop the proposed rule. We also agree that subcategorization is an important consideration and we are evaluating all potential subcategories that may be appropriate for the brick industry.

Your letter also raises concerns regarding the inclusion of "synthetic area sources" when determining the Maximum Achievable Control Technology (MACT) floor for existing sources. The CAA requires the MACT floor to be calculated based on the best-performing sources in the source category. As part of this rulemaking, we are considering all available flexibilities that will minimize the impacts on the brick industry while still meeting the legal requirements of the CAA.

In closing, I would like to underscore that we are sensitive to the impact that this rulemaking may have on the brick industry. As we go forward, we are considering a variety of options based on the diversity of process units, operational characteristics and other factors affecting hazardous air pollutant emissions. I can assure you that we will consider the concerns of the brick industry as we develop the proposed rule.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Cheryl Mackay in the EPA's Office of Congressional and Intergovernmental Relations at mackay.cheryl@epa.gov or (202) 564-2023.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

Congress of the United States
Washington, DC 20515

November 22, 2013

Administrator Gina McCarthy
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator McCarthy:

We are writing to express concerns about the proposed Version 6 of the Energy Star program for Windows, Doors and Skylights.

The success of the Energy Star program has been built upon a framework of pairing energy savings with consumer value. We are concerned Version 6 may push energy efficient products beyond an affordable level for many consumers and fail to account for an achievable payback period for an average homeowner.

According to EPA, ENERGY STAR has a set of six key "guiding principles" in establishing or revising a product performance specification. While all the principles are important, in the Version 6 process the balance between energy savings and reasonable payback has been the most challenging to achieve. We believe that a "reasonable" payback period on customer investment must be ensured when the new standards are finalized, and we are concerned that EPA is not taking this issue seriously enough. We are also concerned about comments from EPA that a primary objective of the proposed revisions is to dramatically reduce the market share of Energy Star products.

EPA recently released a revised payback analysis, introducing a completely new analysis which made the proposed standards appear more affordable. However, in taking this approach, EPA is highlighting low-cost areas of the country where the paybacks are marginally lower and saddling other areas - including many Midwestern and Northern states -with products that do not provide a reasonable payback. In this way, the Agency is ignoring the real world implications of their new standards.

We are also concerned with the transparency of the process used to reach the proposed guidelines. The proposed standards for much of the nation do not appear to be supported by the public record. EPA has not been forthcoming with information regarding consumer affordability, payback periods, and stakeholder support for the standard. Although the Agency continues to insist that its proposals are reasonable for consumers, its own record confirms that stakeholders have expressed concern about the affordability of products under Version 6. EPA should demonstrate that consumers will see both significant energy savings and reasonable paybacks from their investment in Energy Star.

We urge the EPA to review the proposed Energy Star specifications for windows, doors, and skylights to bring them more in line with realistic consumer expectations and reflect the public record.

Sincerely,

PETER WELCH
Member of Congress

CORY GARDNER
Member of Congress

AARON SCHOCK
Member of Congress

SCOTT H. PETERS
Member of Congress

KURT SCHRADER
Member of Congress

MARK POCAN
Member of Congress

KEVIN CRAMER
Member of Congress

JEFF DUNCAN
Member of Congress

BILLY LONG
Member of Congress

MICK MULVANEY
Member of Congress

BILL JOHNSON
Member of Congress

RON KIND
Member of Congress

JAMES P. MORAN
Member of Congress

SEAN P. DUFFY
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 25 2014

OFFICE OF
AIR AND RADIATION

The Honorable Patrick Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of November 22, 2013, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding your concerns about the proposed Version 6 ENERGY STAR program specifications for windows, doors and skylights. The Administrator has asked that I respond on her behalf.

Over the past three years, the EPA has led an open and transparent process to establish new ENERGY STAR requirements for windows, doors and skylights that reflect the top performers in today's market. The revision process included multiple opportunities for formal stakeholder comment. The EPA received input and responded to comments from more than 80 different stakeholders, including product manufacturers, component manufacturers, trade associations, utility programs, energy efficiency groups and other interested parties. These comments ranged from those supportive of the proposed criteria, to requests for more stringent requirements, to concerns the requirements were too stringent.

The EPA's additional analysis of the cost data submitted voluntarily by product manufacturers to help guide the specification revision process indicates that the new levels offer the shortest payback period for consumers. The payback period is typically less than 10 years for lower and average cost products in a wide variety of climates across the U.S. As expected, the best paybacks are typically in climates that experience the most extreme temperatures, either hot or cold. Furthermore, the EPA's review of the current marketplace for windows indicates that many proven, cost-effective technologies are readily available to help manufacturers meet the proposed specification and that more expensive technologies are not necessary to comply. These technologies include better glass and frames.

Just a few weeks ago, the EPA finalized the Version 6 criteria after carefully reviewing all stakeholder comments received on the final draft criteria. Several additional adjustments were made in the final specification based on this feedback. These include extending the implementation date for the Northern Zone performance criteria for windows to January 1, 2016, and revising the skylight performance criteria in the Northern, North-Central, and South-Central Zones to make the criteria less stringent. We believe the resulting criteria are reasonable and balanced. Further information on all criteria adjustments made during this process and the EPA's responses to received comments can be found on the ENERGY STAR website at: http://www.energystar.gov/index.cfm?c=revisions.residential_windows_spec.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Kevin Bailey in the EPA's Office of Congressional and Intergovernmental Relations at bailey.kevinj@epa.gov or (202) 564-2998.

Sincerely,

J. G. McCabe

Janet G. McCabe
Acting Assistant Administrator

Congress of the United States
Washington, DC 20515

May 22, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator McCarthy:

We are writing to request that the Environmental Protection Agency provide a sufficiently long comment period on its upcoming regulation of greenhouse gases from existing power plants. The Agency should provide at least a 120 day comment period, given the significant impact this rule could have on our nation's electricity providers and consumers, on jobs in communities that have existing coal-based power plants, and on the economy as a whole.

The upcoming proposal will necessarily be more complex for the industry to deal with than the proposal for new plants, and stakeholders will need time to analyze the rule and determine its impact on individual power plants and on the electric system as a whole. This analysis will be no small undertaking, especially since this will be the first ever regulation of greenhouse gases from existing power plants. Additionally, since the EPA extended the original 60 day comment period for the new plant proposal, it makes sense to provide at least the same timeline for the existing plant rule.

Affordable and reliable electricity is essential to the quality of life to our constituents. While we can all agree that clean air is important, EPA has an obligation to understand the impacts that regulations have on all segments of society. As one step toward fulfilling this obligation, we urge you to provide for a comment period of at least 120 days on the forthcoming new source performance standards for existing coal-based power plants.

Thank you for your consideration of this request.

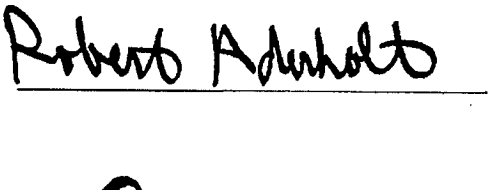
Sincerely,

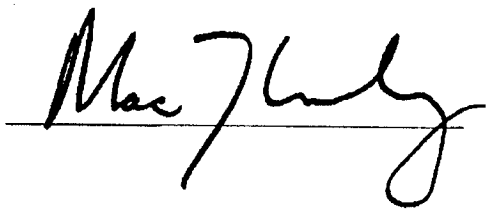
Bill Johnson

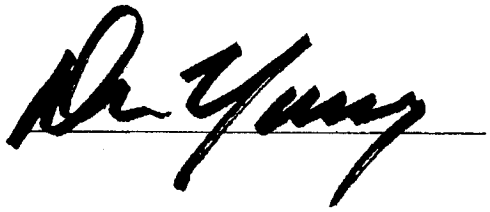
J. Bitt

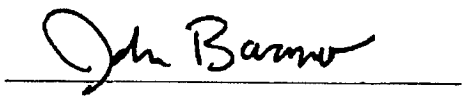
Bennie G. Thompson

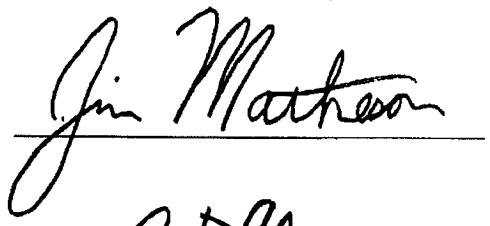
Jim Matheson

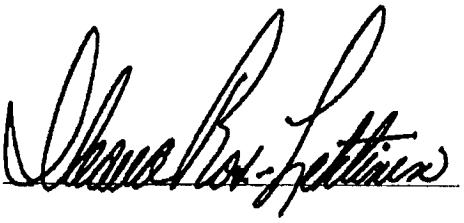


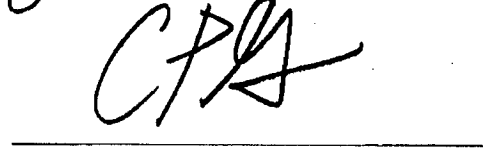


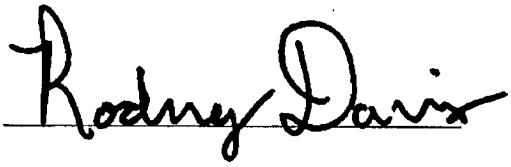


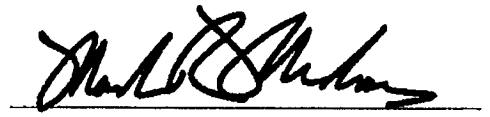


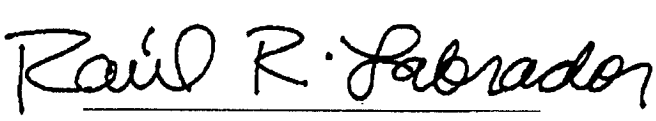


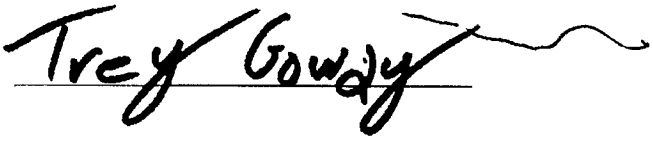


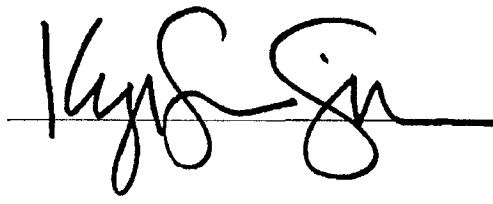


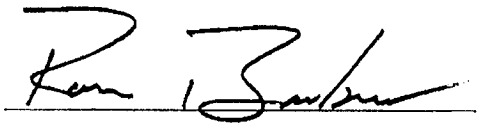


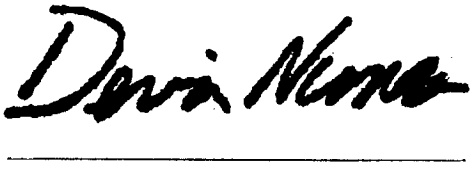


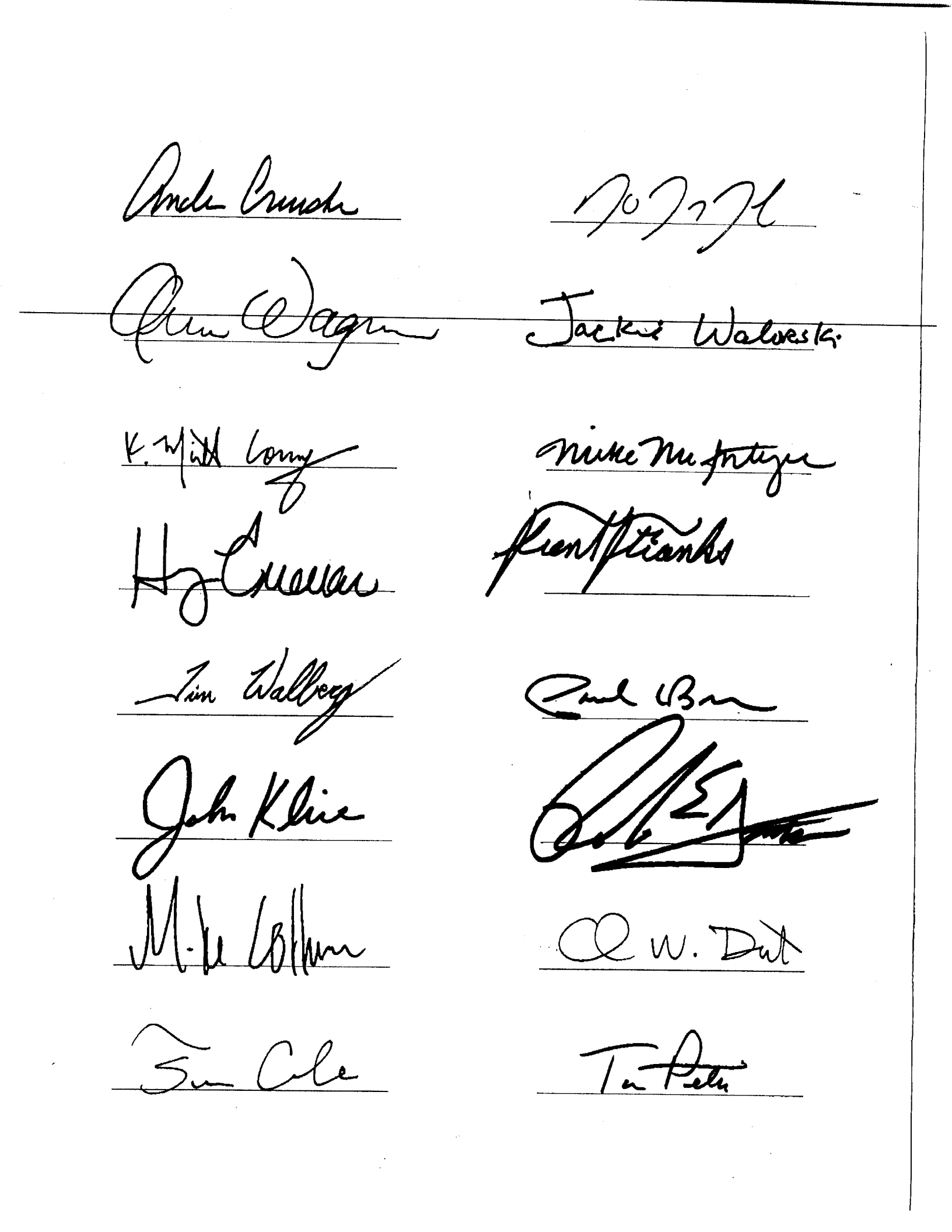










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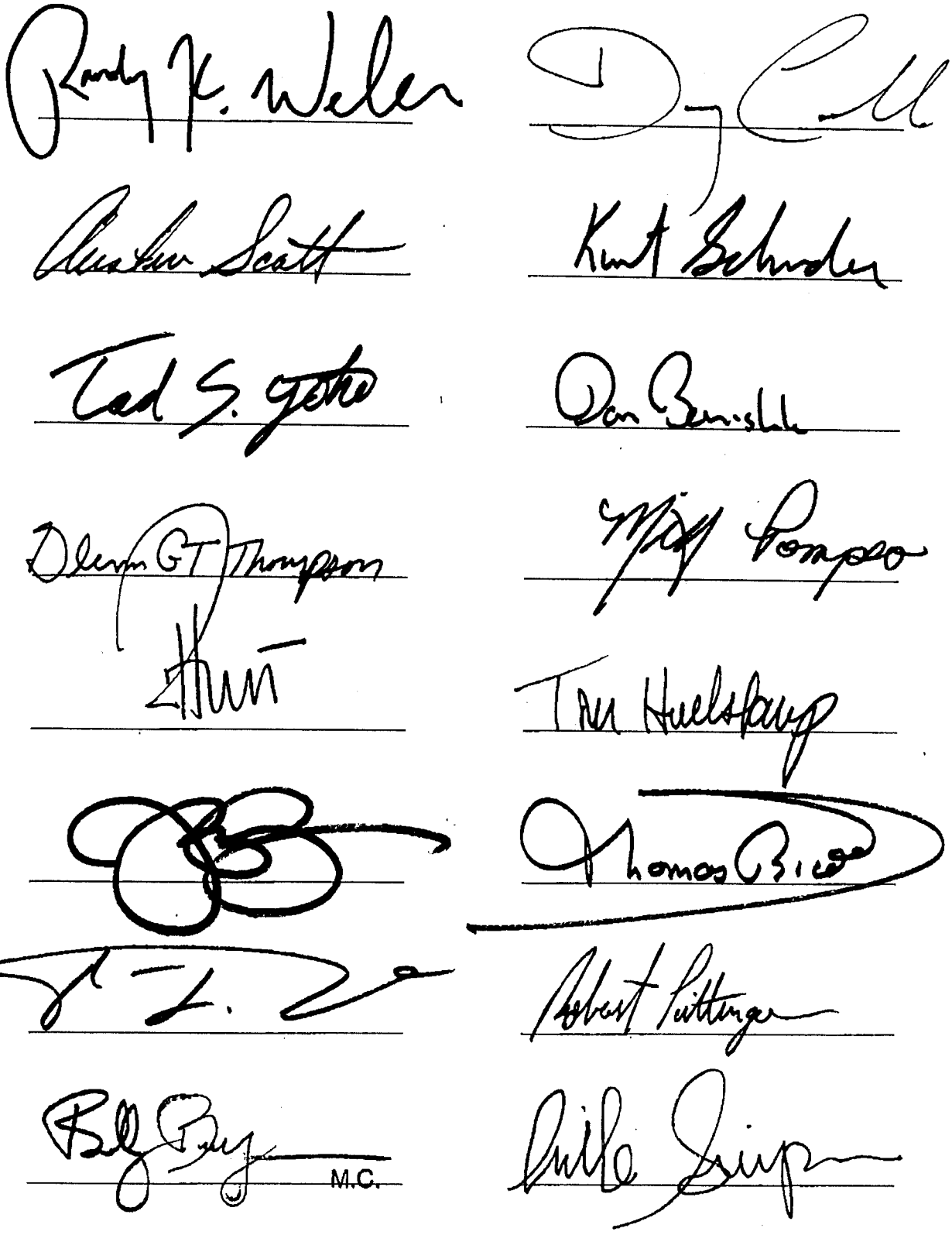
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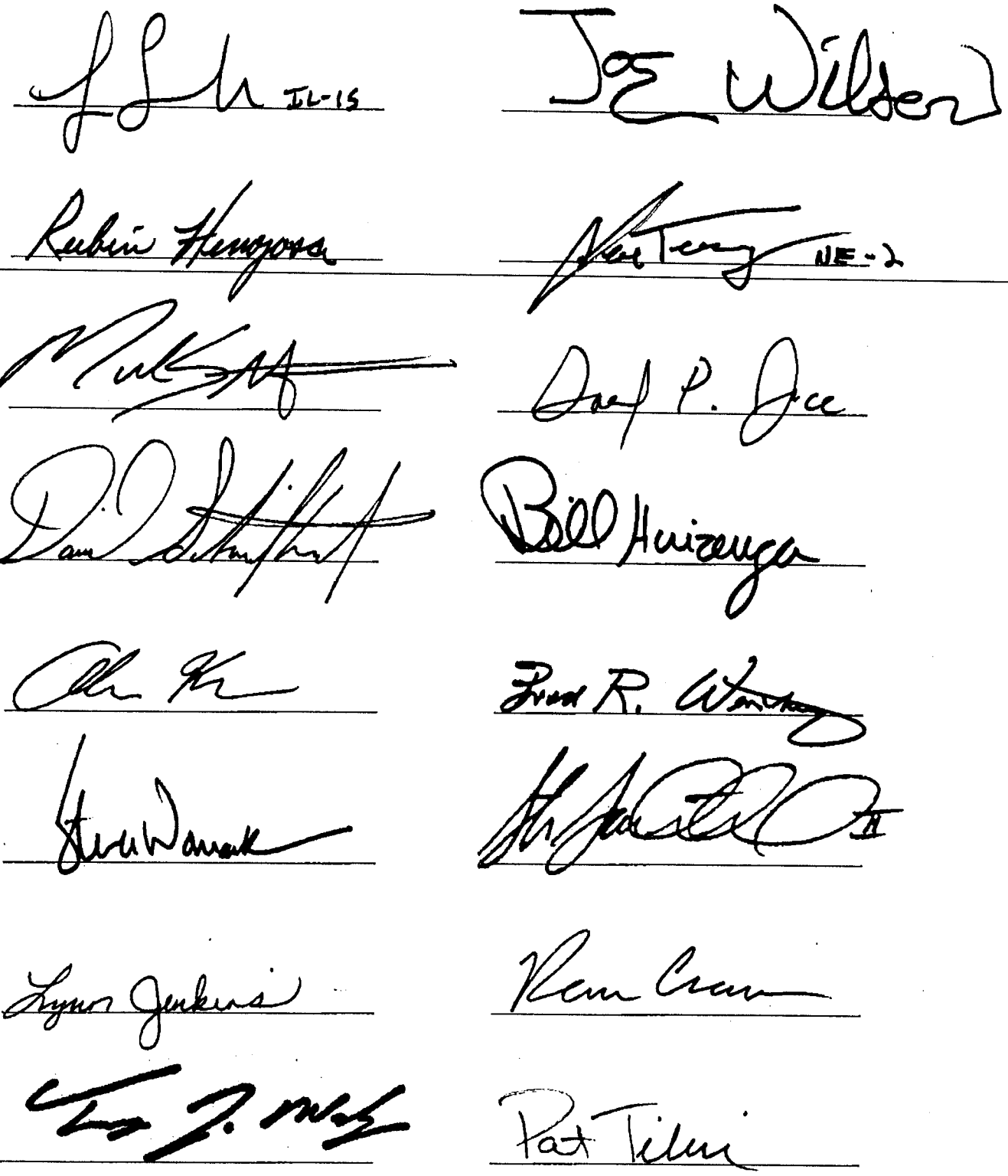
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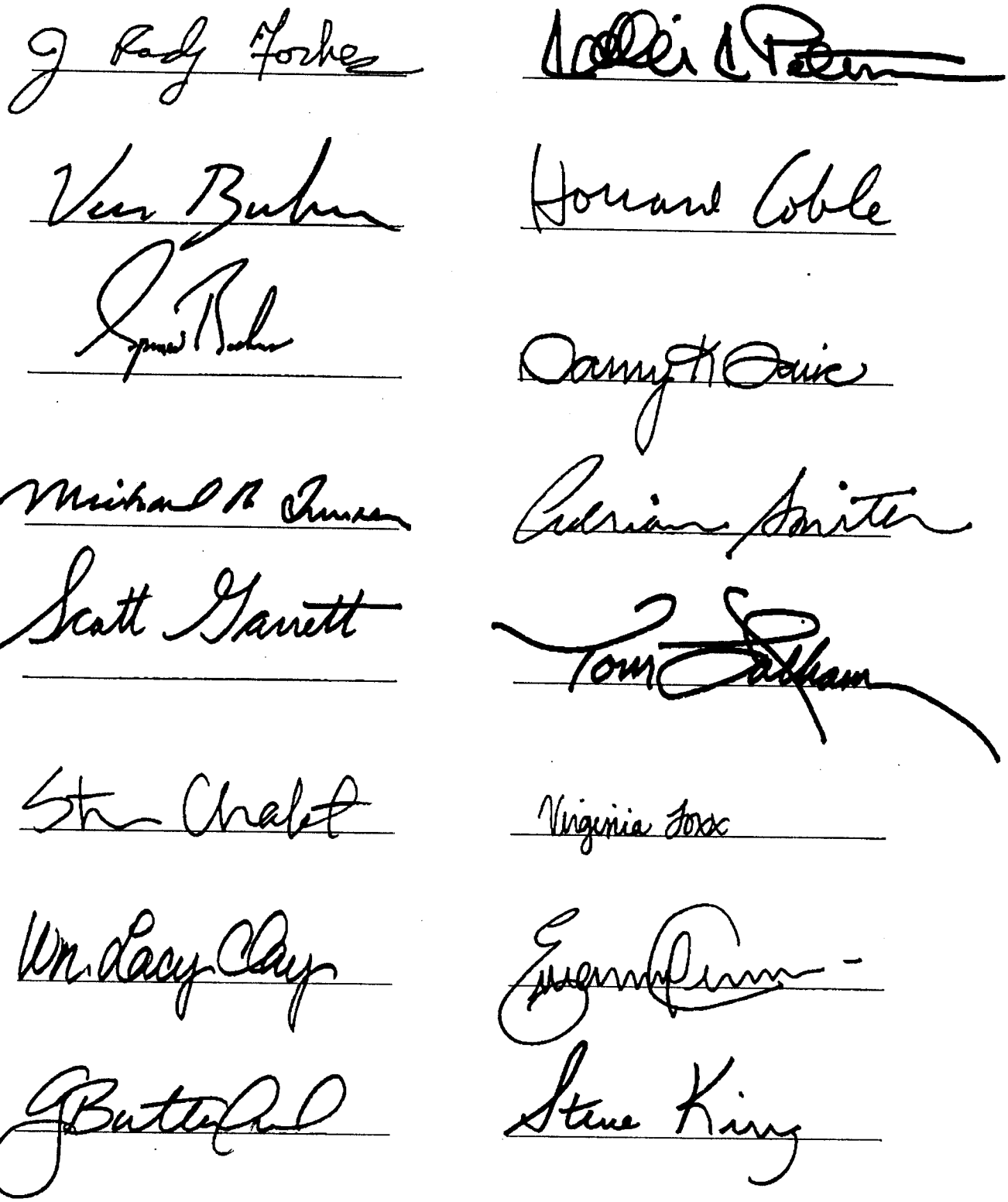

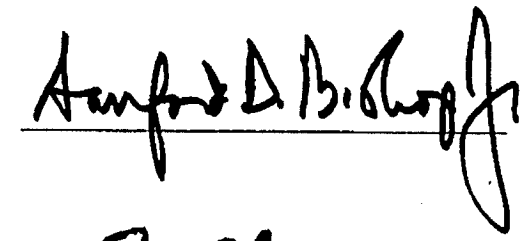

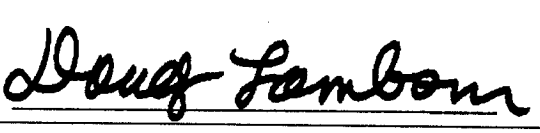

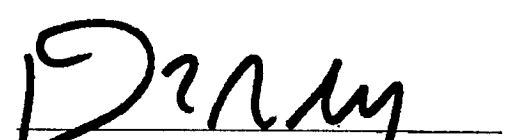

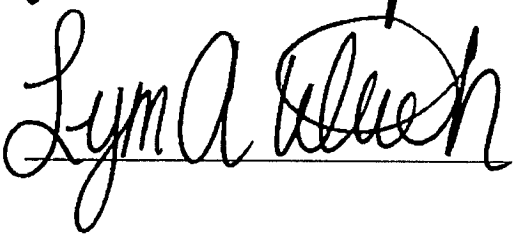

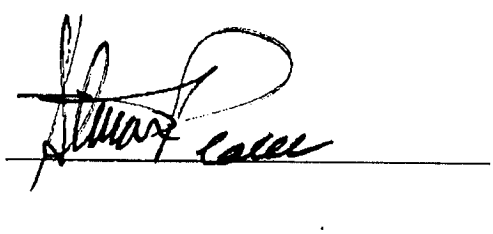

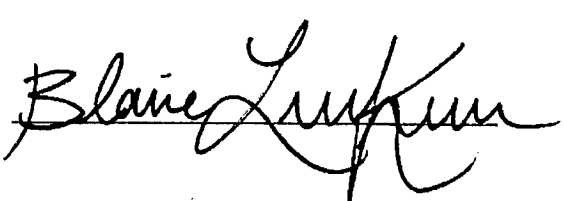

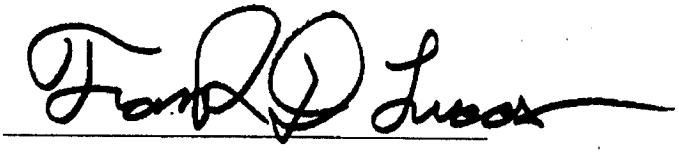

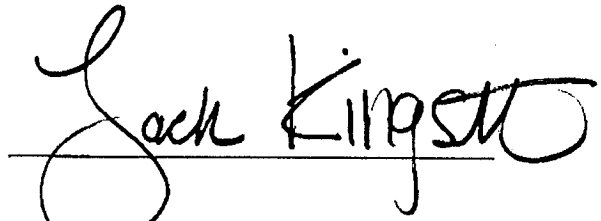

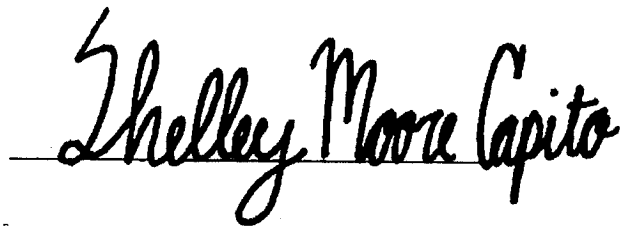

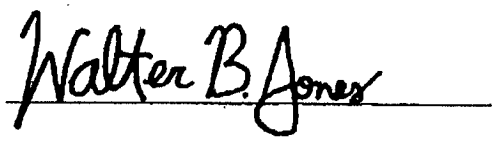

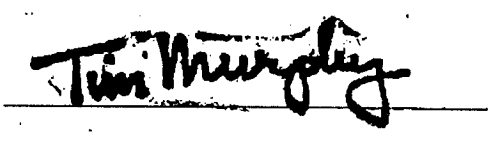

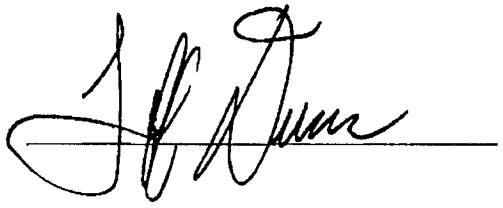

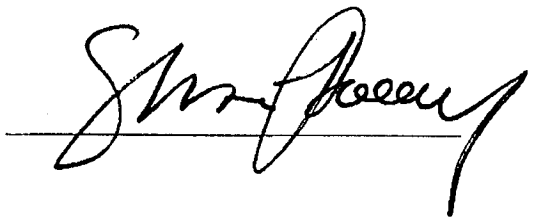

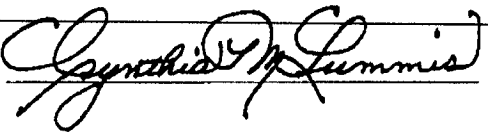

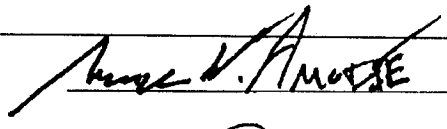

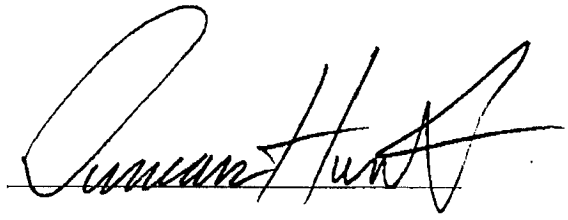

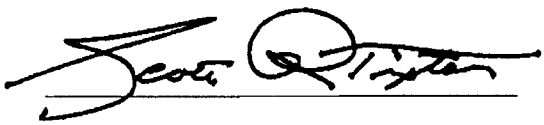

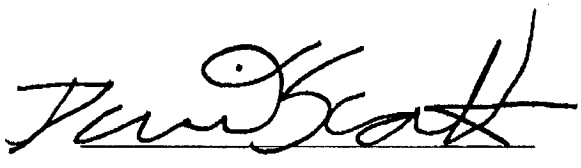

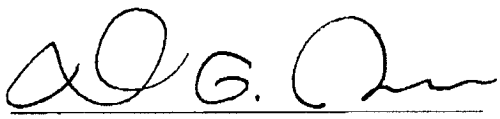

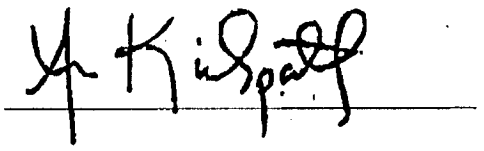

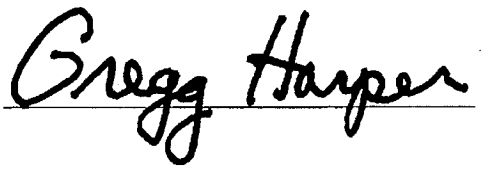

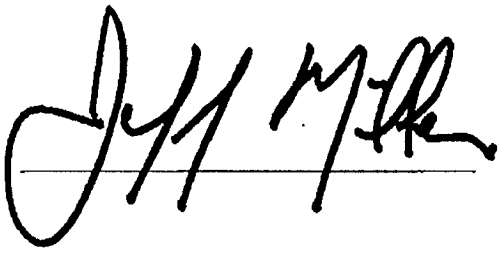

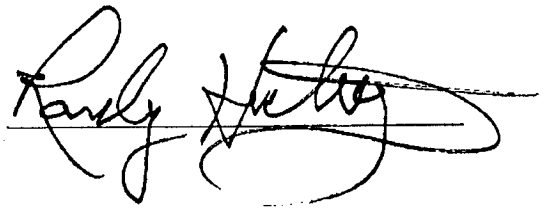

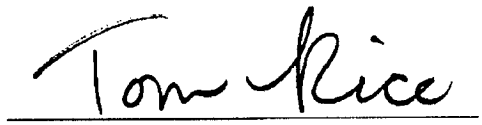

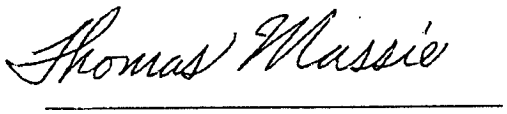

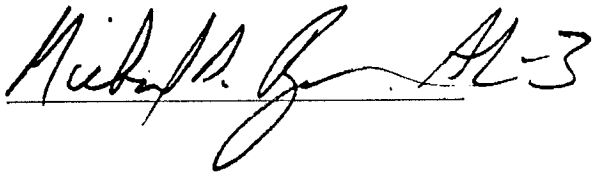
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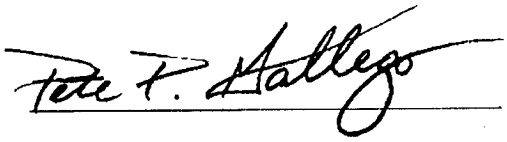

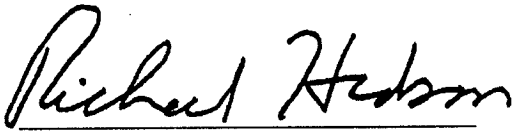

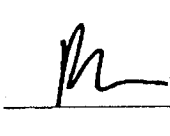

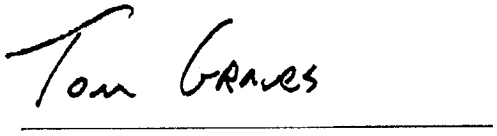

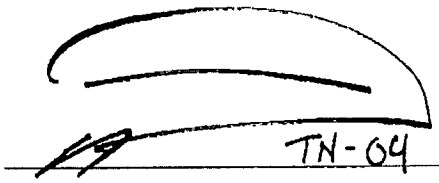
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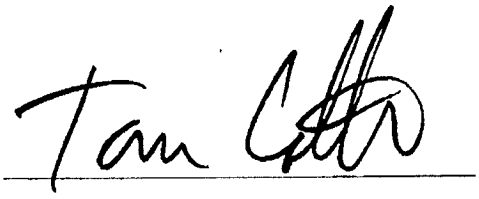

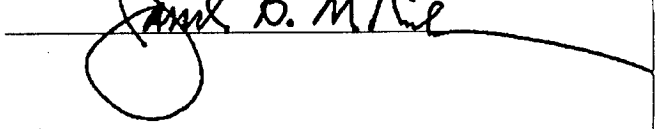

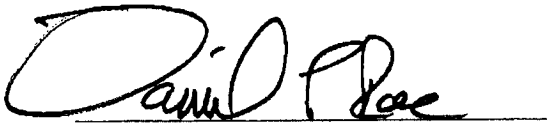

John J Dunn Jr.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

June 2, 2014

OFFICE OF
AIR AND RADIATION

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of May 22, 2014 to Administrator Gina McCarthy, requesting that the U.S. Environmental Protection Agency include a 120-day comment period on our proposed Clean Power Plan, also known as the Carbon Pollution Guidelines for Existing Power Plants. The Administrator has asked me to respond on her behalf.

As you know, the EPA conducted unprecedented outreach while developing this proposal. We met with stakeholders from around the country, including representatives from state and local governments, electric utilities, and civil society. Among the many creative ideas and constructive comments offered were requests similar to yours, to ensure that the comment period allowed the public sufficient time to provide meaningful input on this proposed rule.

Recognizing that the proposal asks for comment on a range of issues, some of which are complex and novel, the EPA has decided to propose this rule with a 120-day comment period. This will allow the EPA to solicit advice and information from the many stakeholders and citizens who we expect will be interested in this rulemaking, giving us the best possible information on which to base a final rule. The proposed rule, as well as information about how to comment and supporting technical information, are available online at: http://www.epa.gov/cleanpowerplan. Comments on the proposed guidelines should be identified by Docket ID No. EPA-HQ-OAR-2013-0602.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Cheryl Mackay in the EPA's Office of Congressional and Intergovernmental Relations at mackay.cheryl@epa.gov or (202) 564-2023.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

PATRICK J. TIBERI
12TH DISTRICT, OHIO

COMMITTEE ON WAYS AND MEANS
CHAIRMAN, SUBCOMMITTEE ON SELECT REVENUE MEASURES

SUBCOMMITTEE ON SOCIAL SECURITY

Congress of the United States
House of Representatives

COLUMBUS OFFICE:
3000 CORPORATE EXCHANGE DRIVE
SUITE 310
COLUMBUS, OH 43231
PHONE: (614) 523-2555
FAX: (614) 818-0887

WASHINGTON OFFICE:
106 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3512
PHONE: (202) 225-5355
FAX: (202) 226-4523

http://tiberi.house.gov

FAX COVER SHEET

To: Administrator Hedman Fax# 312-353-1120

Date: 5/23/14 Pages w/ cover sheet: 4

From:
- ____ Congressman Pat Tiberi
- ____ Walter Taylor
- ____ Pam Hedrick
- ____ Danielle Vandegriff
- ____ _____
- ____ Mark Bell
- X Nancy Shaver
- ____ Luke Crumley
- ____ Richard Spicer
- ____ _____

Notes:

PATRICK J. TIBERI
12TH DISTRICT, OHIO

COMMITTEE ON WAYS AND MEANS
CHAIRMAN, SUBCOMMITTEE ON SELECT REVENUE MEASURES

SUBCOMMITTEE ON SOCIAL SECURITY

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WASHINGTON, DC 20515-3512
PHONE: (202) 225-5355
FAX: (202) 226-4523

http://tiberi.house.gov

Congress of the United States
House of Representatives
May 23, 2014

Ms. Susan Hedman, Regional Administrator
Environmental Protection Agency
US EPA Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604-3590

Dear Administrator Hedman:

The attached communication concerns a request my constituent has forwarded to me which is under the jurisdiction of your office.

Please look into the statements contained within the attached documents and forward me the necessary information for reply. Please address your reply to my district office as listed above.

If you have any questions, please contact Nancy Shaver in my district office at 614-523-2555. Thank you for your time and attention to this matter, and I will look forward to your reply.

Sincerely,

Pat

Patrick J. Tiberi
Representative to Congress

PJT/ns

Enclosure

AUTHORIZATION FORM

The Honorable Patrick J. Tiberi
3000 Corporate Exchange Drive
Suite 310
Columbus, Ohio 43231
(614) 523-2555

I hereby request Congressman Tiberi's assistance and authorize, under the Privacy Act of 1974, the release of any and all information necessary on my behalf.

Signature _____ Date May 20, 2014

Name (please print) Fred Gerling; President, Gerling and Associates, Inc.

Address 138 Stelzer Ct.

Sunbury, OH 43074

Telephone (home)_____ (work) 740-965-2888

Cell Phone _____ EMAIL fredg@gerlinggroup.com

Social Security #_____

Veterans Administration Claim#_____

Service #_____

Other #_____

Date of Birth _____

In the space provided below, please state the nature of the problem for which you are requesting Congressman Tiberi's assistance.

Gerling and Associates, Inc. is seeking help to gain a hearing with a representative of the EPA, SMARTWAY, to gain large trailers SMARTWAY approval for our customers. Gerling and Associates builds 90% of all Remote Television Production Trucks and Trailer used for the production of all sports coverage in the USA. To this date the EPA has been non-responsive to our efforts for a discussion.

(Use additional paper if necessary)

----- Original Message -----
From: Fred Gering
Sent: Wednesday, April 30, 2014 10:55 AM
Subject: Re: Congressional Inquiry - Office of Congressman Pat Tiberi

Hello Richard,

I really appreciate your response and your interest on behalf of our representative, Congressman Pat Tiberi.

In regard to gaining SmartWAY approval for the work we provide our clients, I truly need a fair minded person at EPA working in the SmartWAY area to hear our case. No one out there understands the depth of investment in these large mobile facilities we custom build for our customers. To give some concept of the type of vehicle we are discussing, I have included a floor plan of what once of these giant trucks look likes with their expanding side extended and all the seating for the teams of people who work to provide sports coverage as we know it today. Also attached are a couple of pictures of both the exterior as well as the interior to gain some feel of the technical complexity and a pick of the Super Bowl main compound that fed the aux compound of trucks feeding the world wide tie in of global networks. 48 of the 52 trucks there were built right here in Sunbury. I really need your help on this as EPA just will not respond to a small family owned business.

Again, thank you for your help, we are her for you guys as well.

Best regards,

Fred

Congress of the United States
Washington, DC 20515

June 12, 2014

Gina McCarthy
Environmental Protection Agency
Office of the Administrator #1101A
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Administrator McCarthy:

At the end of the 111th Congress, a bill sponsored by Congressmen Henry Waxman and Ed Markey that would have instituted a "cap-and-trade" system to regulate carbon emissions was rejected by the United States Senate.

We believe that the proposed draft regulation that your Agency published on Monday, June 2, 2014, entitled "Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units" seeks to achieve exactly what the United States Senate rejected. More importantly, we believe that the authority to limit carbon emissions, even if that were actually a necessity, rests in neither the Constitution nor the Clean Air Act but in the true free market of individual choices made by the American people. When Americans are free to dream and innovate – not coerced by regulators in Washington who will never have exclusive knowledge of science or the newest technologies – we believe they will always find cheaper, cleaner, safer, and more efficient ways to use and produce energy.

When we try to manage our economy to achieve certain ends, the result is always less innovation and therefore slower economic growth. The American Coalition for Clean Coal Electricity found that regulations with similar goals will cost 178,000 jobs each year for fifteen years. The Heritage Foundation estimates that the effect of this and other unnecessary regulations will decrease aggregate gross domestic product by more than $2 trillion through 2038, and the average family will lose $1,200 in annual income by 2023.

In short, Madame Administrator, we believe this carbon dioxide regulation – whose implementation is legally questionable at best – would do untold harm to the American people and our economy for decades to come.

We demand that you immediately rescind this unwise and unconstitutional regulation. We eagerly await your written response.

Blessings and Liberty,

Jeff Duncan
Member of Congress

Jeb Hensarling
Member of Congress

Congress of the United States
Washington, DC 20515

Jack Kingston
Member of Congress

Bill Cassidy
Member of Congress

Cynthia Lummis
Member of Congress

Patrick Tiberi
Member of Congress

Justin Amash
Member of Congress

Blake Farenthold
Member of Congress

Tim Huelskamp
Member of Congress

Marsha Blackburn
Member of Congress

Todd Rokita
Member of Congress

Gregg Harper
Member of Congress

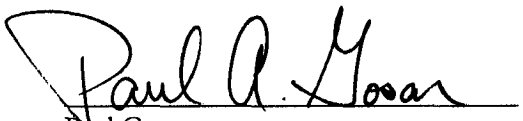
Brett Guthrie
Member of Congress

Pete Olson
Member of Congress

Vance McAllister
Member of Congress

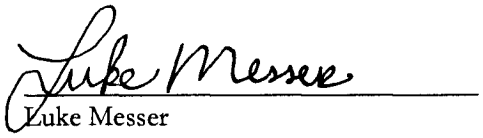
Chris Stewart
Member of Congress

Congress of the United States
Washington, DC 20515

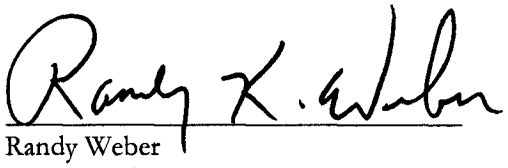


Paul Gosar
Member of Congress

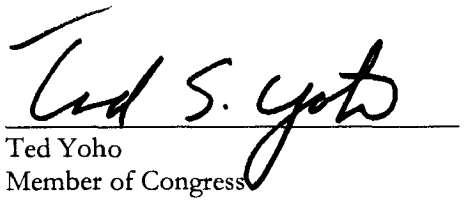
Doug LaMalfa
Member of Congress



Luke Messer
Member of Congress

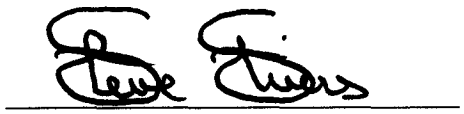


Randy Weber
Member of Congress



Ted Yoho
Member of Congress

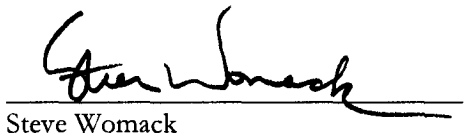
Doug Collins
Member of Congress



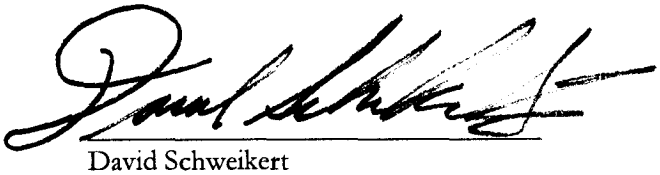
Steve Stivers
Member of Congress

Markwayne Mullin
Member of Congress

Stephen Fincher
Member of Congress

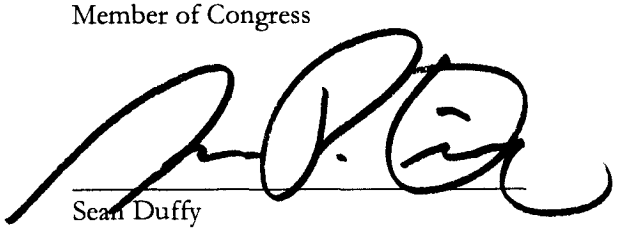


Steve Womack
Member of Congress

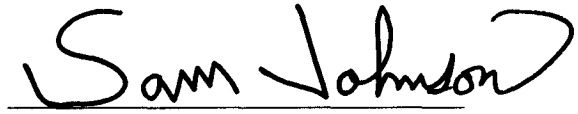


David Schweikert
Member of Congress

Mick Mulvaney
Member of Congress



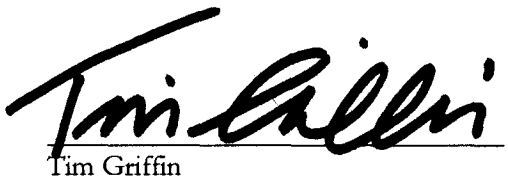
Sean Duffy
Member of Congress



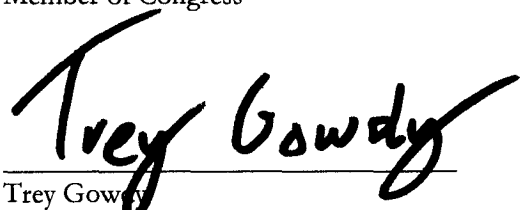
Sam Johnson
Member of Congress

Congress of the United States
Washington, DC 20515

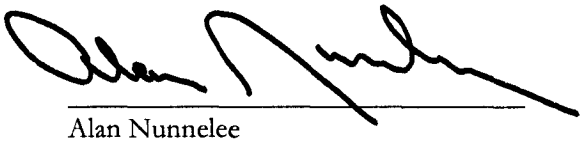
Steve Southerland
Member of Congress



Tim Griffin
Member of Congress



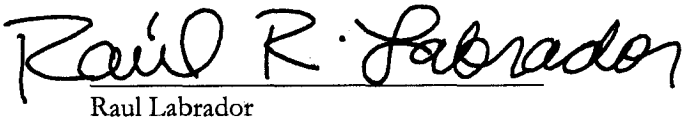
Trey Gowdy
Member of Congress



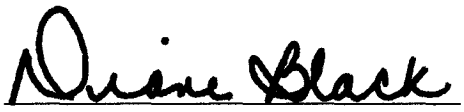
Alan Nunnelee
Member of Congress

Charles Boustany
Member of Congress

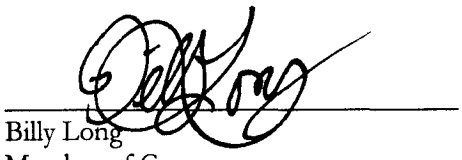
Mark Meadows
Member of Congress



Raul Labrador
Member of Congress



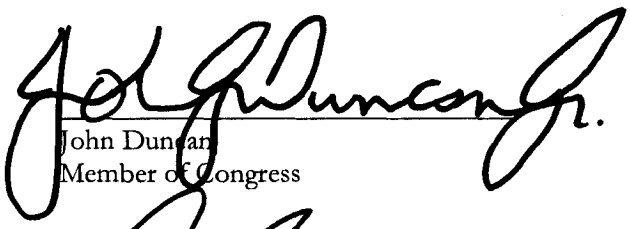
Diane Black
Member of Congress



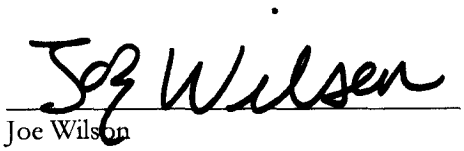
Billy Long
Member of Congress

Bill Johnson
Member of Congress

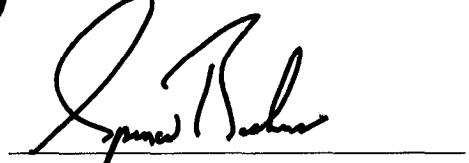
Howard Coble
Member of Congress



John Duncan
Member of Congress



Joe Wilson
Member of Congress



Spencer Bachus
Member of Congress

Congress of the United States
Washington, DC 20515

Matt Salmon
Member of Congress

John Culberson
Member of Congress

Steve Chabot
Member of Congress

Ralph Hall
Member of Congress

Michele Bachmann
Member of Congress

Lynn Westmoreland
Member of Congress

Thomas Massie
Member of Congress

Trent Franks
Member of Congress

Paul C. Broun, M.D.
Member of Congress

Mike Coffman
Member of Congress

James F. Sensenbrenner, Jr.
Member of Congress

Bob Goodlatte
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 11 2014

OFFICE OF
AIR AND RADIATION

The Honorable Patrick Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of June 12, 2014, to the U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the Clean Power Plan for Existing Power Plants that was signed by the Administrator on June 2, 2014, and published in the *Federal Register* on June 18, 2014. The Administrator asked that I respond on her behalf.

Climate change induced by human activities is one of the greatest challenges of our time. It already threatens human health and welfare and our economic well-being, and if left unchecked, it will have devastating impacts on the United States and the planet. Power plants are the largest source of carbon dioxide emissions in the United States, accounting for roughly one-third of all domestic greenhouse gas emissions.

The Clean Power Plan aims to cut energy waste and leverage cleaner energy sources by doing two things. First, it uses a national framework to set achievable state-specific goals to cut carbon pollution per megawatt hour of electricity generated. Second, it empowers the states to chart their own paths to meet their goals. The proposal builds on what states, cities and businesses around the country are already doing to reduce carbon pollution, and when fully implemented in 2030, carbon emissions will be reduced by approximately 30 percent from the power sector across the United States when compared with 2005 levels. In addition, we estimate the proposal will cut the pollution that causes smog and soot by 25 percent, avoiding up to 100,000 asthma attacks and 2,100 heart attacks by 2020.

Before issuing this proposal, the EPA heard from more than 300 stakeholder groups from around the country to learn more about what programs are already working to reduce carbon pollution. These meetings, with states, utilities, labor unions, nongovernmental organizations, consumer groups, industry, and others, reaffirmed that states are leading the way. The Clean Air Act provides the tools to build on these state actions in ways that will achieve meaningful reductions and recognizes that the way we generate power in this country is diverse, complex and interconnected.

Congress of the United States
Washington, DC 20515

December 15, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator McCarthy:

We are writing to express concerns over a recent proposal by the Environmental Protection Agency (EPA) to prohibit the use of certain refrigerants and foam blowing agents. The proposed rule, *Change of Listing Status for Certain Substitutes Under the SNAP Program* (Docket No. EPA-HQ-OAR-2014-0198), would negatively impact a large variety of industries operating in our districts and have severe economic consequences.

As written, the proposed rule would have a substantial impact on manufacturers of all sizes, including those in the food service equipment, home appliance, lab equipment, automotive, marine and recreational boating, building construction, and vending machine industries. Across the United States, companies operating in these industries, and the jobs they provide, are vital to local economies. While we can all agree that reducing the use of the regulated chemicals is a mutually supported goal, we have serious concerns with EPA's proposal to meet the target.

We are concerned that the EPA's proposal would require a full supply chain engineering and manufacturing transition with an infeasible timeline and does not adequately allow for the development of alternative chemicals. Additionally, we recommend that EPA coordinate with existing and expected Department of Energy (DOE) efficiency standards.

Several industries impacted by this proposal, including food service equipment and home and commercial appliance manufacturers, have just recently concluded reengineering, manufacturing, and new product rollout associated with revised DOE energy conservation standards, effective on September 15. These same activities, costing millions of dollars, will need to be undertaken to prepare for the next iteration of DOE energy conservation standards. We recommend that EPA coordinate the timeline for a phase out of hydrofluorocarbons (HFCs) with existing DOE protocols.

Additionally, this transition will negatively impact energy usage and manufacturer participation in the ENERGY STAR program. For example, since 2010, manufacturers of specialized laboratory equipment have collaborated with DOE to establish the first-ever ENERGY STAR standard for its products. DOE finalized the test methods this summer and implementation is imminent. This would result in more efficient lab freezers, incubators and

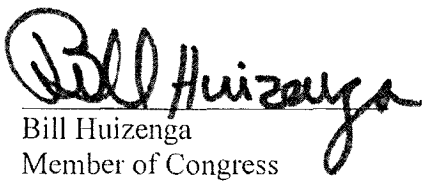
centrifuges. If manufacturers of lab products must accommodate EPA's proposal as written, it will set these efficiency efforts back by several years. We, therefore, strongly encourage the EPA to ensure its final rule reduces duplication, aligns with previously published programs, and reflects other transitions happening in specialized industries.

In its proposal, the EPA should also acknowledge the level of engineering needed in order for most industries to transition away from HFCs. Chemical formulas used by manufacturers are carefully developed over years of testing to ensure stability, longevity, material compatibility, safety, and quality. Our understanding is there is currently no "drop in" alternative for the regulated chemicals, and it is unlikely that any one solution will be applicable to a very broad array applications. In recreational boat manufacturing, for example, these foams contribute to the seaworthiness of boats - any change must be thoroughly studied. Additionally, testing and reengineering is not limited to the primary manufacturer – the entire supply chain must also evaluate how its components will be impacted by the transition. As a result, thousands of small- and medium-sized businesses must devote substantial resources to this transition. For all companies, especially small businesses, the transition away from HFCs needs to be carefully planned and financed. The EPA should adjust their proposal to reflect a feasible transition for manufacturers of all sizes, affording them the flexibility to develop and test new alternatives.

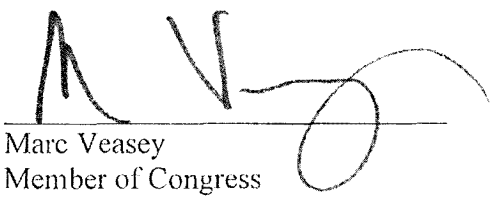
Affordable, efficient and safe manufactured equipment is essential to the regular operations of a wide variety of industries and residential housing, ranging from restaurants, cancer treatment centers and blood banks to shipbuilders and florists. The proposed rule, as written, would have a significant impact on all segments of society. We do not believe that the proposed rule accurately reflects the due diligence that must be undertaken to accomplish the transition on this timeline. In addition, we believe EPA should properly coordinate their proposal with DOE energy efficiency standards to reduce or eliminate duplicative or contradictory activities, as manufacturers continue towards the goal of reducing the use of the regulated chemicals. As a result, we strongly encourage EPA to work with each impacted industry to revise this proposal and align manufacturing realities and the agencies' goals.

Thank you for consideration of this very important matter.

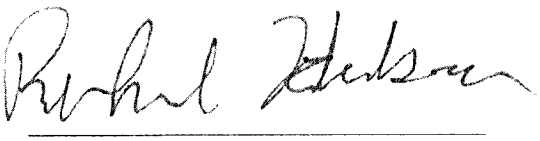
Sincerely,



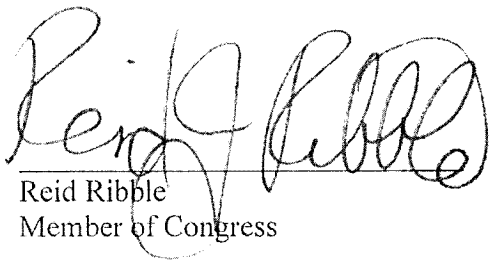
Bill Huizenga
Member of Congress



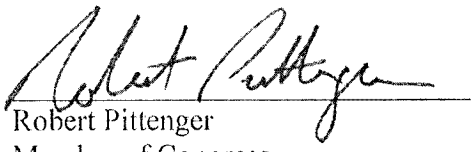
Marc Veasey
Member of Congress



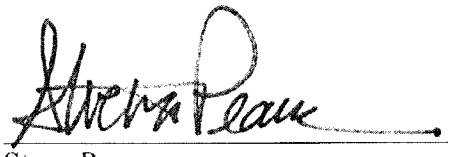
Richard Hudson
Member of Congress



Reid Ribble
Member of Congress

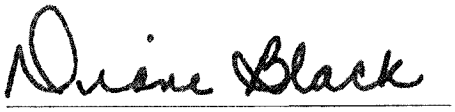


Robert Pittenger
Member of Congress



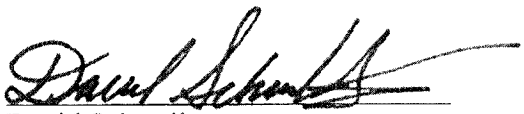
Steve Pearce
Member of Congress

Trent Franks
Member of Congress

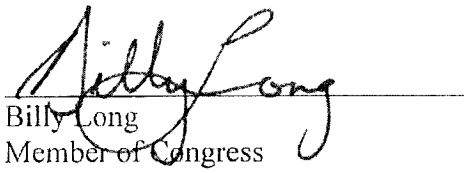


Diane Black
Member of Congress

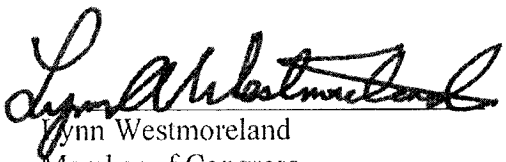
Paul A. Gosar, D.D.S.
Member of Congress



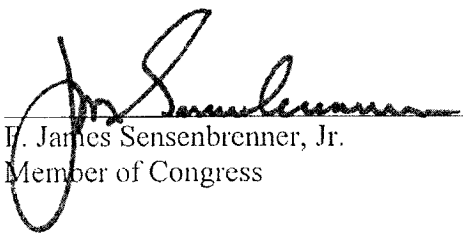
David Schweikert
Member of Congress



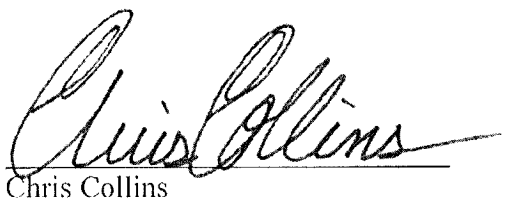
Billy Long
Member of Congress



Lynn Westmoreland
Member of Congress

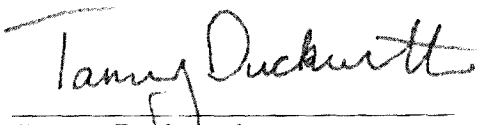


F. James Sensenbrenner, Jr.
Member of Congress

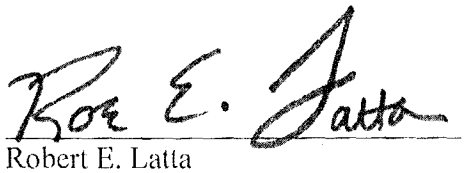


Chris Collins
Member of Congress

Mark Meadows
Member of Congress

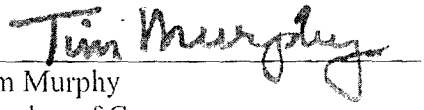


Tammy Duckworth
Member of Congress

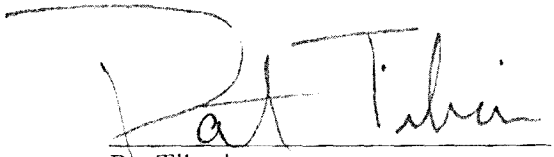


Robert E. Latta
Member of Congress

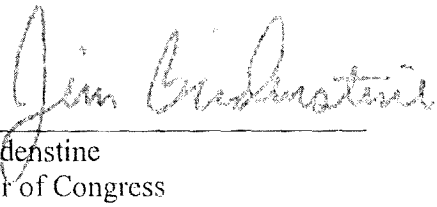
Bill Johnson
Member of Congress



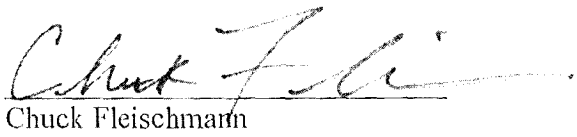
Tim Murphy
Member of Congress



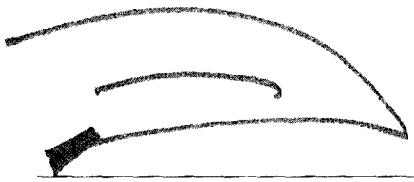
Pat Tiberi
Member of Congress



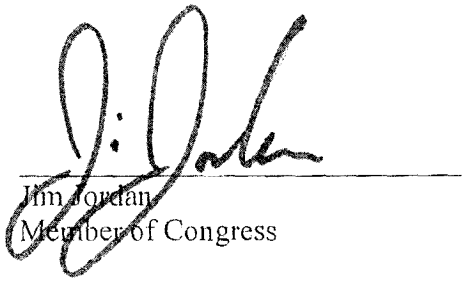
Jim Bridenstine
Member of Congress



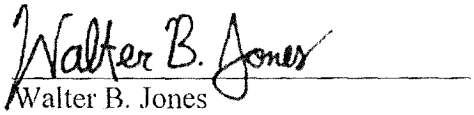
Chuck Fleischmann
Member of Congress



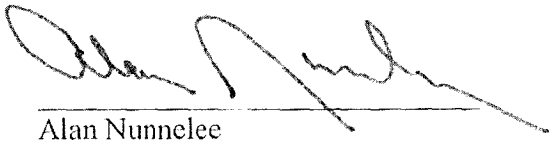
Scott DesJarlais
Member of Congress



Jim Jordan
Member of Congress



Walter B. Jones
Member of Congress



Alan Nunnelee
Member of Congress

Steve Stivers
Member of Congress

Brett Guthrie
Member of Congress

Kevin Yoder
Member of Congress

Darrell Issa
Member of Congress

Susan Brooks
Member of Congress

Bob Gibbs
Member of Congress

Rick Crawford
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 18 2015

OFFICE OF
AIR AND RADIATION

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Tiberi:

Thank you for your letter of December 15, 2014, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding your concerns with the EPA's Notice of Proposed Rulemaking (NPRM), "Protection of Stratospheric Ozone: Change of Listing Status for Certain Substitutes under the Significant New Alternatives Policy Program" (SNAP program), published in the Federal Register on August 6, 2014. The Administrator asked that I respond on her behalf.

In support of President Obama's Climate Action Plan, the EPA is proposing to change the listing status of certain high global warming potential chemicals that were previously listed as acceptable, based on information showing that other substitutes are currently or potentially available for the same uses that pose lower overall risks to human health and the environment. Specifically, the EPA proposes to modify the listings for certain hydrofluorocarbons (HFCs) from acceptable to unacceptable in various end-uses in the aerosols, refrigeration and air conditioning, and foam blowing sectors.

The EPA has engaged extensively with our stakeholders, including manufacturers in the building/ construction foam blowing, and retail and household refrigeration industries, as well as other federal agencies, to discuss the proposed changes. We have heard from stakeholders on a range of topics including technical challenges with meeting some of the proposed transition dates, and we are evaluating these comments. In total, we received more than 7,000 comments during the comment period on the proposed rule, which closed on October 20, 2014. We have placed your letter in the docket and will consider all comments carefully as we develop the final rule.

The EPA recognizes the importance of refrigerants and foam blowing agents in meeting energy efficiency standards. Prior to and during development of this proposed rulemaking, the EPA and the Department of Energy (DOE) met regularly to share technical information regarding sectors that may be affected by the actions of both agencies. Further, the DOE participated in the interagency review process that preceded publication of the proposed rule, and shared comments with the EPA. Since then, the EPA

and the DOE have continued regular interactions. As we develop the final rule, and moving forward, we expect that this important interaction will continue as appropriate. Additionally, your letter specifically refers to the work the DOE has been supporting to establish an ENERGY STAR classification for ultra-low temperature freezers. The refrigerant used in this end-use, which the SNAP program classifies as "Very Low Temperature Refrigeration," was not affected by the proposed rule.

While we are in the process of considering comments as we prepare the final rule, it is useful to consider that an important characteristic of the SNAP program is to offer a menu of acceptable alternatives, rather than pointing users with often very diverse technical requirements toward only one option. In this way, manufacturers can select options best suited to their own situation, considering critical issues like safety and cost. As discussed in your letter, we recognize the product efficacy needed for marine applications and will consider the information provided by commenters.

The EPA appreciates and welcomes your views on the proposed regulations. To review the public docket and comments on this proposed rule, visit www.regulations.gov and search for docket number EPA-HQ-OAR-2014-0198.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Cheryl Mackay in the EPA's Office of Congressional and Intergovernmental Relations at mackay.cheryl@epa.gov or 202-564-2023.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

1157668

Congress of the United States
Washington, DC 20515

December 19, 2014

The Honorable Barack Obama
President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Obama:

We write to express our concerns regarding the proposed rule announced by the Environmental Protection Agency on June 2, 2014 and entitled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." This proposal is an unprecedented attempt by the EPA to change the way we generate, transmit and consume electricity in the United States by asserting new regulatory authorities over state electricity decision-making.

This unprecedented proposed rule would require states to submit individual or regional energy plans to be approved by EPA in order to achieve the agency's predetermined carbon dioxide emissions targets for each state. To comply with the rule, EPA directs states to consider including in their plans, and to make federally enforceable, a broad range of activities relating to a state's electricity sector. EPA specifically directs states to consider renewable energy standards, generation dispatch changes, co-firing or switching to natural gas, construction of new natural gas combined-cycle plants, transmission efficiency improvements, energy storage technology, plant retirements, expanding renewables like wind and solar, expanding nuclear, market-based trading programs, and demand-side energy efficiency and conservation programs. Under the rule, EPA would also have the ability to impose its own alternate federal energy plan on a state in the event EPA did not approve a state's plan. We agree that states should be free under their own laws to pursue these types of energy policies and activities within their own borders, but it is not the role of the EPA to exercise ultimate authority over a state's electricity system.

The continued affordability and reliability of our electricity supplies is critical to our nation's future economic growth, job creation, and to all American households and businesses. Due to market factors and existing environmental requirements, significant power plant shutdowns are already underway across the country, and these closures raise concerns about the continued reliability of the grid and electricity rates even in the absence of EPA's recently proposed rule. Under the proposed rule, EPA projects there would be additional power plant retirements and electricity rate increases. Were this to occur, these additional retirements and rate increases would further threaten electricity reliability and drive up energy costs for consumers, including the elderly, poor, and those on fixed incomes, at a time when over 50 million Americans are currently living in poverty.

Although the details of this proposed rule are still being considered by all stakeholders, the proposal threatens to impose huge burdens and challenges on states and higher costs on consumers. While our views on the statutory authority for carbon dioxide regulations vary, we are all concerned that this rule is simply unworkable as proposed and, if finalized, would effectively give EPA control over a state's generation, supply and consumption of power. Accordingly, we respectfully ask that you direct the EPA to withdraw its proposed rule as soon as practicable.

Sincerely,

Ed Whitfield
Chairman, Energy and Power Subcommittee

Sanford Bishop
Member of Congress

Robert E. Latta
Member of Congress

Walter B. Jones
Member of Congress

Tim Murphy
Member of Congress

John Shimkus
Member of Congress

Doug Lamborn
Member of Congress

Blaine Luetkemeyer
Member of Congress

Cynthia Lummis
Member of Congress

Mick Mulvaney
Member of Congress

F. James Sensenbrenner, Jr.
Member of Congress

Tim Walberg
Member of Congress

Michael C. Burgess
Member of Congress

Virginia Foxx
Member of Congress

Louie Gohmert
Member of Congress

Shelley Moore Capito
Member of Congress

Jeb Hensarling
Member of Congress

Brett Guthrie
Member of Congress

Henry Cuellar
Member of Congress

Doug LaMalfa
Member of Congress

Paul A. Gosar
Member of Congress

Ann Wagner
Member of Congress

Keith Rothfus
Member of Congress

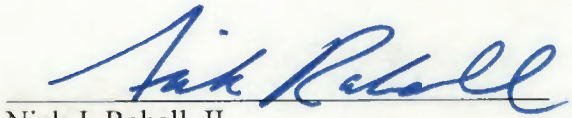
William L. Enyart
Member of Congress

Steve Daines
Member of Congress

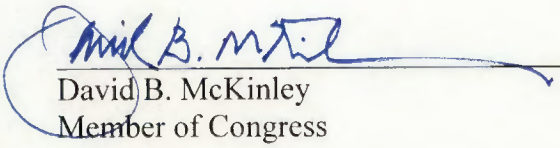
John Barrow
Member of Congress

Scott DesJarlais
Member of Congress

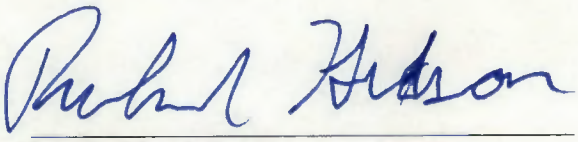
Tom Marino
Member of Congress



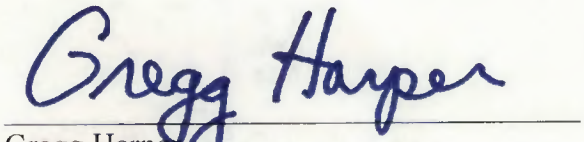
Nick J. Rahall, II
Member of Congress



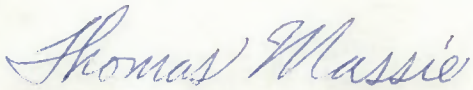
David B. McKinley
Member of Congress



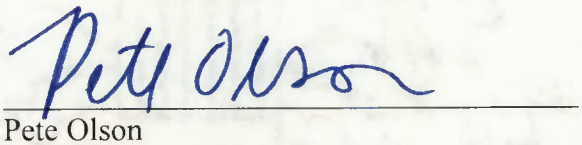
Richard Hudson
Member of Congress



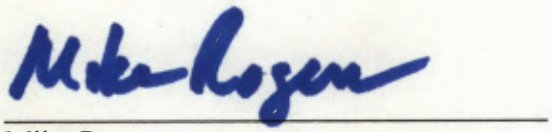
Gregg Harper
Member of Congress



Thomas Massie
Member of Congress

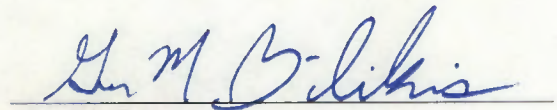


Pete Olson
Member of Congress

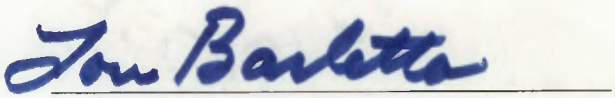


Mike Rogers
Member of Congress

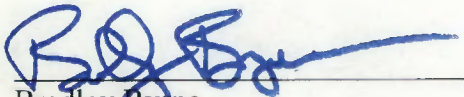
Scott Tipton
Member of Congress



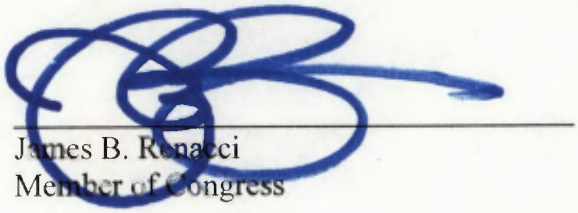
Gus M. Bilirakis
Member of Congress



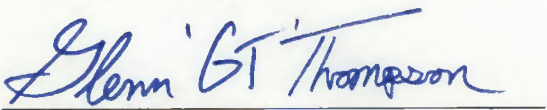
Lou Barletta
Member of Congress



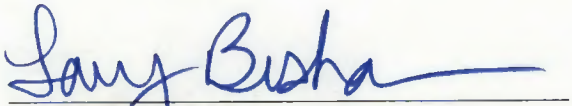
Bradley Byrne
Member of Congress



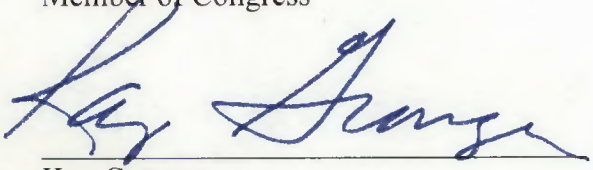
James B. Renacci
Member of Congress



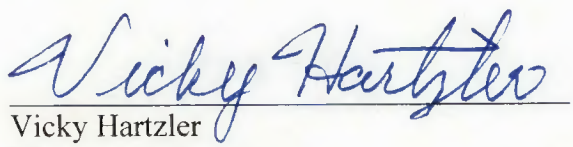
Glenn Thompson
Member of Congress



Larry Bucshon
Member of Congress



Kay Granger
Member of Congress



Vicky Hartzler
Member of Congress

Kevin Cramer
Member of Congress

Bill Flores
Member of Congress

H. Morgan Griffith
Member of Congress

Chris Collins
Member of Congress

Jason T. Smith
Member of Congress

David Schweikert
Member of Congress

Sam Johnson
Member of Congress

Bill Huizenga
Member of Congress

Brad R. Wenstrup
Member of Congress

Sam Graves
Member of Congress

Alan Nunnelee
Member of Congress

Andy Barr
Member of Congress

Susan W. Brooks
Member of Congress

Billy Long
Member of Congress

Bill Johnson
Member of Congress

James Lankford
Member of Congress

Collin C. Peterson
Member of Congress

Joe Wilson
Member of Congress

Adrian Smith
Member of Congress

Dana Rohrabacher
Member of Congress

Harold Rogers
Member of Congress

Lamar Smith
Member of Congress

John Fleming
Member of Congress

Sean P. Duffy
Member of Congress

Steve Stivers
Member of Congress

Mike Kelly
Member of Congress

Aaron Schock
Member of Congress

Randy K. Weber, Sr.
Member of Congress

Jackie Walorski
Member of Congress

Pete Sessions
Member of Congress

Trent Franks
Member of Congress

Marsha Blackburn
Member of Congress

Markwayne Mullin
Member of Congress

David P. Joyce
Member of Congress

Diane Black
Member of Congress

Patrick J. Tiberi
Member of Congress

Renee Ellmers
Member of Congress

Adam Kinzinger
Member of Congress

Paul Cook
Member of Congress

Mo Brooks
Member of Congress

Reid J. Ribble
Member of Congress

Andy Harris
Member of Congress

Jeff Duncan
Member of Congress

Kevin Brady
Member of Congress

Mark E. Amodei
Member of Congress

Phil Roe, M.D.
Member of Congress

Joseph R. Pitts
Member of Congress

Mike Pompeo
Member of Congress

Joe Barton
Member of Congress

Martha Roby
Member of Congress

Don Young
Member of Congress

Stephen Lee Fincher
Member of Congress

Jim Jordan
Member of Congress

J. Randy Forbes
Member of Congress

Fred Upton
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 18 2015

OFFICE OF
AIR AND RADIATION

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of December 19, 2014, to President Obama regarding the Clean Power Plan for existing power plants that was signed by the Administrator on June 2, 2014, and published in the *Federal Register* on June 18, 2014.

Climate change induced by human activities is one of the greatest challenges of our time. It already threatens human health and welfare and our economic well-being, and if left unchecked, it will have devastating impacts on the United States and the planet. Power plants are the largest source of carbon dioxide emissions in the United States, accounting for roughly one-third of all domestic greenhouse gas emissions. The proposed Clean Power Plan builds on what states, cities and businesses around the country are already doing to reduce carbon pollution and establishes a flexible process for states to develop plans to reduce carbon dioxide that meet their needs. We have placed your comments in the docket for this rulemaking.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Cheryl Mackay in the EPA's Office of Congressional and Intergovernmental Relations at mackay.cheryl@epa.gov or at (202) 564-2023.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

Congress of the United States
Washington, DC 20515

July 28, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington D.C., 20460

Dear Administrator McCarthy,

We are concerned that the Environmental Protection Agency (EPA) has proposed new ozone National Ambient Air Quality Standards (NAAQS) before completing implementation of the existing ozone standards. Between 1980 and 2013, U.S. Gross Domestic Product, population, and energy consumption grew substantially, while air emissions dropped significantly. Moving forward, EPA projects air quality will continue to substantially improve over the next ten years through various federal controls including state and industry efforts to implement the current 2008 ozone standard. EPA can support economic growth while continuing the decades-long trend towards cleaner air by maintaining the existing 75 ppb ozone standard and allowing time for our constituents to fully implement current clean air requirements.

EPA data indicates that the air is cleaner today than it has been in thirty years, progress due in large part to control measures associated with past NAAQS standards. This success shows that ozone NAAQS when given an opportunity to be fully implemented produce significant reductions. Companies seeking to build or expand facilities invest significantly in control processes. If a proposed standard cannot be met, nonattainment areas would be required to implement costly ozone-reduction measures and permitting requirements that could prove technologically difficult. Moreover, EPA acknowledges that there are alternative views on health effects evidence and risk information. Due to all these uncertainties, allowing the current standard to take full effect would alleviate any perceived concerns with measured scientific data and allow EPA time to further consider those uncertainties while still protecting air quality.

EPA's ozone rules affect all aspects of our communities and municipalities, including consumers and vital industries. EPA openly acknowledges that to meet national air quality standards a partnership is required between the federal government, states, localities and industry. Yet, the timing of EPA's proposal could strain state and local government resources. EPA delayed implementing the current 2008 standard for two years while it decided whether to reconsider that standard. EPA is just now providing states with guidance to implement the 2008 standard, and the state-federal clean air partnership should be allowed an opportunity to work.

Indeed, states are currently investing substantial administrative resources to make up lost time. It could prove burdensome to force states to implement a new ozone standard at the same time they are only starting to implement the current one. We believe allowing sufficient time for existing measures to take hold, before setting a new ozone standard, would yield the desired results EPA is currently seeking.

While we recognize that EPA is under court order to complete its review of the ozone NAAQS, EPA has requested comment on maintaining the existing standard. We believe the full implementation of a standard of 75 ppb is in line with EPA goals and the ideals set forth under the Clean Air Act and, could possibly, by the next five year review, achieve lower emissions standards than originally sought. It is clear from the past that ozone standards can only achieve the desired results if they are allowed time to be fully implemented. EPA should keep in mind the newly laid out requirements in the delayed 2008 ozone NAAQS when considering whether to finalize a new, potentially stricter, standard. Therefore, we request EPA allow time for the benefits of the current ozone standard to become effective by retaining the current ozone standard.

Sincerely,

Robert E. Latta
Member of Congress

Gene Green
Member of Congress

Mike Kelly
Member of Congress

Pete Olson
Member of Congress

Ann Kirkpatrick
Member of Congress

Kevin Cramer
Member of Congress

Jim Bridenstine
Member of Congress

Kyrsten Sinema
Member of Congress

Reid Ribble
Member of Congress

Morgan Griffith
Member of Congress

Bill Johnson
Member of Congress

Glenn Grothman
Member of Congress

Frank Lucas
Member of Congress

Rodney Davis
Member of Congress

Garrett Graves
Member of Congress

Ruben Hinojosa
Member of Congress

Richard Hudson
Member of Congress

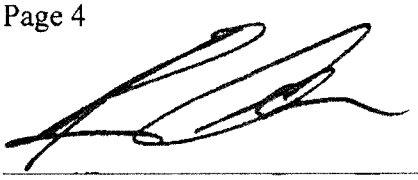
Dan Newhouse
Member of Congress

David McKinley
Member of Congress

Steve Chabot
Member of Congress

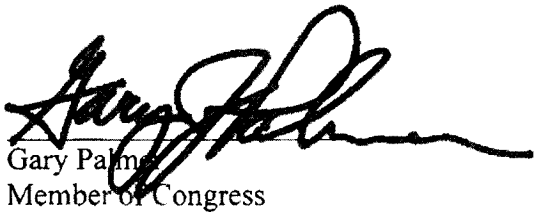
Henry Cuellar
Member of Congress

Jim Renacci
Member of Congress

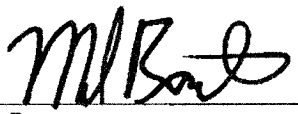


Ralph Abraham
Member of Congress

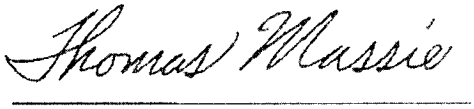
Steve Knight
Member of Congress



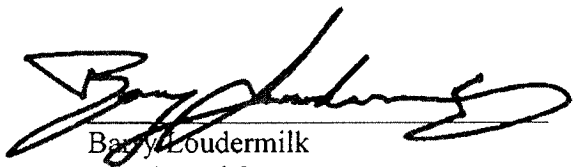
Gary Palmer
Member of Congress



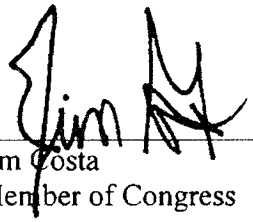
Mike Bost
Member of Congress



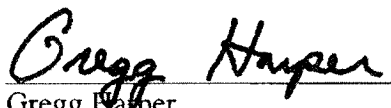
Thomas Massie
Member of Congress



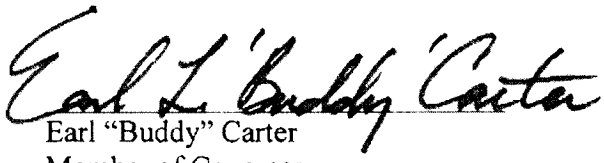
Barry Loudermilk
Member of Congress



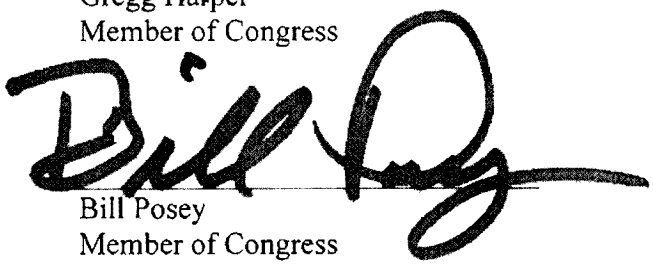
Jim Costa
Member of Congress



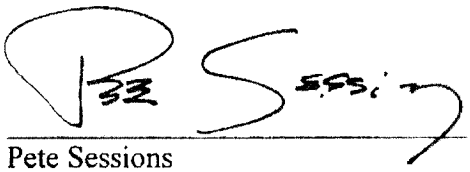
Gregg Harper
Member of Congress



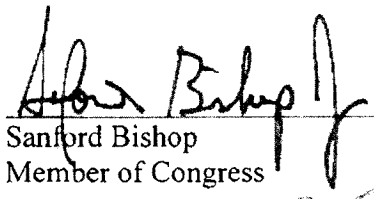
Earl "Buddy" Carter
Member of Congress



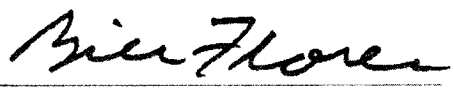
Bill Posey
Member of Congress



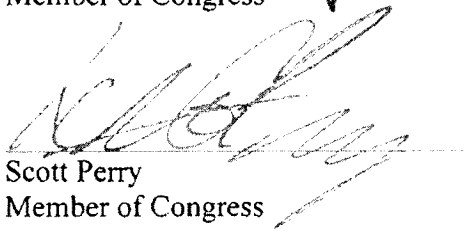
Pete Sessions
Member of Congress



Sanford Bishop
Member of Congress



Bill Flores
Member of Congress



Scott Perry
Member of Congress

Adam Kinzinger
Member of Congress

John Fleming, MD
Member of Congress

Duncan Hunter
Member of Congress

Brian Babin
Member of Congress

David Joyce
Member of Congress

Randy Hultgren
Member of Congress

Bob Gibbs
Member of Congress

Andy Barr
Member of Congress

Scott Tipton
Member of Congress

Al Green
Member of Congress

John Moolenaar
Member of Congress

Lynn Jenkins
Member of Congress

Lamar Smith
Member of Congress

Stephen Fincher
Member of Congress

Ann Wagner
Member of Congress

Steve Scalise
Member of Congress

Billy Long
Member of Congress

F. James Sensenbrenner, Jr.
Member of Congress

Brad Ashford
Member of Congress

Randy Weber
Member of Congress

Ken Buck
Member of Congress

Brett Guthrie
Member of Congress

Susan Brooks
Member of Congress

Mike Pompeo
Member of Congress

Evan Jenkins
Member of Congress

Rick Crawford
Member of Congress

Renee Ellmers
Member of Congress

Tim Ryan
Member of Congress

Austin Scott
Member of Congress

Hal Rogers
Member of Congress

Leonard Lance
Member of Congress

Walter B. Jones
Member of Congress

Randy Neugebauer
Member of Congress

Luke Messer
Member of Congress

Mo Brooks
Member of Congress

Adrian Smith
Member of Congress

Steve Stivers
Member of Congress

Ed Whitfield
Member of Congress

Collin Peterson
Member of Congress

Mike D. Rogers
Member of Congress

Jeb Hensarling
Member of Congress

Patrick Tiberi
Member of Congress

Markwayne Mullin
Member of Congress

Rob Woodall
Member of Congress

Alex Mooney
Member of Congress

Fred Upton
Member of Congress

Joe Barton
Member of Congress

Brad Wenstrup
Member of Congress

Chuck Fleischmann
Member of Congress

David Schweikert
Member of Congress

Larry Bucshon
Member of Congress

Cedric Richmond
Member of Congress

Michael McCaul
Member of Congress

Bruce Westerman
Member of Congress

Kay Granger
Member of Congress

K. Michael Conaway
Member of Congress

Rosa DeLauro
Member of Congress

Doug Collins
Member of Congress

John Shimkus
Member of Congress

Tom Marino
Member of Congress

Diane Black
Member of Congress

David Rouzer
Member of Congress

Gus M. Bilirakis
Member of Congress

Keith Rothfus
Member of Congress

Terri Sewell
Member of Congress

Ted S. Yoho, D.V.M.
Member of Congress

Chris Collins
Member of Congress

Sam Johnson
Member of Congress

Michael Doyle
Member of Congress

Sean P. Duffy
Member of Congress

John Culberson
Member of Congress

Jackie Walorski
Member of Congress

Filemon Vela
Member of Congress

Michael Simpson
Member of Congress

Todd Young
Member of Congress

Andy Harris
Member of Congress

Jason Smith
Member of Congress

Randy Forbes
Member of Congress

Doug Lamborn
Member of Congress

Steve King
Member of Congress

Phil Roe, M.D.
Member of Congress

Vicky Hartzler
Member of Congress

Marsha Blackburn
Member of Congress

Ryan Zinke
Member of Congress

Will Hurd
Member of Congress

Patrick McHenry
Member of Congress

Kevin Brady
Member of Congress

Charles W. Dent
Member of Congress

Lou Barletta
Member of Congress

Bill Huizenga
Member of Congress

Blane Luetkemeyer
Member of Congress

Tim Huelskamp
Member of Congress

Rick Allen
Member of Congress

Steve Pearce
Member of Congress

Joseph R. Pitts
Member of Congress

Tim Murphy
Member of Congress

Jeff Duncan
Member of Congress

Dan Benishek, M.D.
Member of Congress

Bradley Byrne
Member of Congress

Rod Blum
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 2 2 2015

OFFICE OF
AIR AND RADIATION

The Honorable Patrick Tiberi
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of July 28, 2015, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the Ozone National Ambient Air Quality Standards (NAAQS) proposed rule. The Administrator asked that I respond on her behalf.

As you know, the EPA sets NAAQS to protect public health and the environment from six common pollutants, including ground-level ozone. The Clean Air Act requires the EPA to review these standards every five years to ensure that they are sufficiently protective. On November 25, 2014, the EPA proposed to strengthen the NAAQS for ground-level ozone, based on extensive scientific evidence about ozone's effects.

As you note we have made great progress in improving air quality and public health in the United States, and it has not come at the expense of our economy. Indeed, over the past 40 years, air pollution has decreased by nearly 70 percent while the economy has tripled. The recently adopted clean air regulations you mention will certainly improve ozone levels across the country, and as a result, we expect more areas to have improved air quality in the future.

I appreciate your comments on the ozone proposal and have asked my staff to place your letter in the docket for the rulemaking.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at lewis.josh@epa.gov or (202) 564-2095.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

Congress of the United States
Washington, DC 20515

July 31, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

It has been brought to our attention that EPA currently is using the pre-manufacture notice (PMN) process for new chemicals under Section 5 of the Toxic Substances Control Act (TSCA) to review medium-chain and long-chain chlorinated paraffins (MCCP and LCCP).

Many in the industry have concerns about the EPA's use of TSCA's new chemical provisions to eliminate these chemicals without public notice-and-comment procedures. TSCA's Section 5 PMN process does not provide for public review and comment on either the risk assessments behind EPA's decision, or the Agency's proposed action on a particular PMN, severely disadvantaging stakeholders who use MCCP and LCCP.

Furthermore, EPA has placed MCCP and LCCP in its TSCA Chemical Work Plan and indicated in its "Peer Review Plan" under that program that there would be opportunities for public review and comment, and an independent expert peer review of EPA's risk assessment of MCCP and LCCP.

Finally, a planned deadline of May 31, 2016, would force the U.S. manufacturers that make and use MCCP and LCCP to re-formulate, test and seek approvals for their operations and products using alternative materials. In some cases, substitutes may not be available, and, in other cases, substitution may take years.

We request that the EPA explain why the Agency is using a consent order process, rather than either issuing a significant new use rule or proceeding under the TSCA Work Plan to address MCCP and LCCP. Additionally, we request EPA provide us with the new data that have been developed on MCCP and LCCP and explain any additional environmental exposures that EPA believes to be occurring. Considering that these substances have been in commerce for more than 70 years, plus the implications to U.S. manufacturing as well as the Departments of Defense and Energy if they were to be removed from the market, EPA's action to ban MCCP and LCCP should be taken only if, after careful and transparent stakeholder involvement and independent peer review, the science supports such an action, with an appropriate transition time.

The EPA should undertake the Peer Review Plan for MCCP and LCCP that it has outlined under the TSCA Chemical Work Plan program prior to taking final action on the PMNs for these substances.

The additional transparency provided by the Peer Review Plan is appropriate and necessary to ensure understanding of the proposed actions, and more fully evaluate the implications of a cessation of the manufacture and import of MCCP and LCCP to U.S. manufacturers.

Your prompt consideration of this request is greatly appreciated.

Sincerely,

Bob Gibbs
Member of Congress

Rick Crawford
Member of Congress

Robert Dold
Member of Congress

Pat Tiberi
Member of Congress

David Joyce
Member of Congress

Bill Johnson
Member of Congress

Randy Hultgren
Member of Congress

Lynn Westmoreland
Member of Congress

Robert E. Latta
Member of Congress

Dave Trott
Member of Congress

Ed Royce
Member of Congress

Morgan Griffith
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C., 20460

FEB 17 2016

OFFICE OF
CHEMICAL SAFETY AND
POLLUTION PREVENTION

The Honorable Patrick Tiberi
House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your letter of July 31, 2015, to the U.S. Environmental Protection Agency (EPA) regarding the pre-manufacture notice (PMN) process for new chemicals under Section 5 of the Toxic Substances Control Act (TSCA) and the process that the agency is using to address medium-chain and long-chain chlorinated paraffins (MCCP and LCCP).

The EPA is reviewing MCCP and LCCP chemicals as part of our New Chemicals Review Program under the Toxics Substances Control Act (TSCA). This is the result of settlements in 2012 resolving violations of the TSCA pre-manufacture notice obligations for production and import of various chlorinated paraffins. As part of consent decrees between the Department of Justice (DOJ), the EPA and Dover Chemical, and separately between DOJ, the EPA and INEOS Chlor Americas (now INOVYN Americas, Inc), the companies were required to cease domestic manufacture and import of the closely-related short-chain chlorinated paraffins, which have persistent, bioaccumulative and toxic (PBT) characteristics. The companies were also required to submit new chemical pre-manufacture notices under TSCA section 5 for all chlorinated paraffins domestically produced or imported. As with all PMN submissions, the EPA is following the processes, procedures and statutory provisions of TSCA section 5, which includes our policy on substances that are potential Presistent, Bioaccumulative, and Toxic (PBT) chemicals.

The agency's assessment of the submitted pre-manufacture notices indicates concerns about the potential PBT properties of MCCP and LCCP chemicals and the dispersive nature of many of their uses. To help ensure a complete understanding of the possible risks, the EPA has over the past months requested from industry that critical uses of specific chlorinated paraffins be identified. After consultation with the EPA, the Department of Defense (DOD) also requested information from its suppliers on critical uses, which includes the use and information on the lack of a substitute chemical.

In addition, on December 23, 2015, the EPA made public the preliminary risk assessments currently under development for the PMN reviews. To help inform the assessments and reduce uncertainties, we also requested the submittal of new available data on chlorinated paraffins in different industries and for different uses, including whether there are uses for the PMN chlorinated paraffin substances that do not present the potential for direct or indirect release to water and data on treatment methods, environmental releases, and other waste management practices, particularly for non-water based applications. The Federal Register Notice can be found at http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPPT-2015-0789-0001. This information is due to the agency by February 22, 2016, and we anticipate making a final decision on the PMNs after consideration of new data.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at kaiser.sven-erik@epa.gov or 202-566-2753.

Sincerely,

James J. Jones
Assistant Administrator

AL-08-000-5993

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 15 2008

REPLY TO THE ATTENTION OF:

R-19J

The Honorable Patrick J. Tiberi
House of Representatives
Washington, D.C. 20515

Dear Congressman Tiberi:

Thank you for your April 29, 2008, letter to Administrator Stephen Johnson regarding Ohio's application to have the Ohio Department of Agriculture (ODA) administer the Ohio National Pollutant Discharge Elimination System (NPDES) program for concentrated animal feeding operations (CAFO). This authority currently resides with the Ohio Environmental Protection Agency (Ohio EPA). In the letter, you asked EPA to promptly act on ODA's application.

I want to assure you that EPA is committed to making a determination on the application, received in January 2007, as quickly as practicable. EPA's primary interest throughout the review process has been to ensure that there continues to be an effective NPDES program for CAFOs in Ohio, regardless of which State agency is the NPDES authority. In order for ODA's application to be approved, ODA must have the authority and standards to regulate CAFOs under the NPDES program to the extent required by the Clean Water Act and its implementing regulations.

EPA and ODA are cooperating as ODA works to resolve issues raised by EPA in April and November 2007 letters to ODA. EPA and ODA staff held conference calls in December 2007 and January 2008, to promote common understanding of these issues. In February 2008, ODA staff provided draft revisions and clarifications of the application. EPA, ODA, and Ohio EPA staff met by conference call twice in April. I am pleased to report that the February submittal and April conference calls resolved many of the issues, pending adoption of needed revisions to Ohio statutes and rules. ODA requested time to consider EPA's proposals to resolve the remaining issues. We will discuss ODA's response to EPA's proposals during a call scheduled for May 16. Following satisfactory resolution of all concerns, EPA is prepared to move forward with the process for program authorization.

Again, thank you for your letter. I value Ohio's work to protect and preserve water quality while maintaining the economic competitiveness of Ohio's livestock and

poultry industry. If you have further questions, please contact me or your staff may contact Mary Canavan or Ronna Beckmann, the Region 5 Congressional Liaisons, at 312-886-3000.

Sincerely,

Bharat Mathur
Acting Regional Administrator

PATRICK J. TIBERI
12TH DISTRICT, OHIO

MEMBER
COMMITTEE ON EDUCATION AND THE WORKFORCE
COMMITTEE ON FINANCIAL SERVICES
ASSISTANT WHIP

AL-0300921

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WASHINGTON, DC 20515-3512
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DISTRICT OFFICE
2700 EAST DUBLIN-GRANVILLE ROAD
SUITE 525
COLUMBUS, OH 43231
(614) 523-2555

Congress of the United States
House of Representatives
Washington, DC 20515-3512

July 8, 2003

The Honorable Linda Fisher
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Fisher:

I write today regarding the Environmental Protection Agency's proposed emission standards for new highway motorcycles and recreational boats. It is my understanding that a final rule on highways motorcycles may only be weeks away, and I am concerned that a number of questions concerning this rule have not yet been answered.

I am particularly interested in your response to the following questions:

1. To what degree has the agency met its obligations under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)?

2. It is my understanding that the motorcycle industry's independent shops and aftermarket suppliers were not included as part of the small business community potentially affected by this proposed rule. Were these businesses considered in the SBREFA process as directly impacted small businesses and, if not, why?

3. To what degree did the agency comply with Executive Order 12866 that obligates the regulatory agencies to consider less stringent alternatives?

4. What segment of the industry will be responsible for certifying compliance with the regulations – the owner, assembler, or the aftermarket engine manufacturer? More specifically, in the case of kit bikes offered for sale by aftermarket companies, who should bear the burden of compliance?

5. To what degree did the agency consider rider safety when drafting the proposed rule?

Thank you for your cooperation and assistance in this matter. I look forward to hearing from you at your earliest convenience.

Sincerely,

Patrick J. Tiberi
Representative to Congress

AL-05 0421
Response

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 19 2003

THE ADMINISTRATOR

The Honorable Patrick J. Tiberi
U.S. House of Representatives
Washington, D.C. 20515-3512

Dear Congressman Tiberi:

Thank you for your letter of July 8, 2003, in regard to the Environmental Protection Agency's (EPA) proposed emission standards for new street motorcycles. I appreciate having this opportunity to respond to your concerns regarding how this rule would affect small businesses.

The Notice of Proposed Rulemaking (NPRM) for new street motorcycles was published in the Federal Register on August 14, 2002, and the public comment period was extended to January 7, 2003, in response to a request for more time from the motorcycle rider community. We received many comments on the proposed rule, and they will be carefully considered before making final decisions. The enclosure to this letter contains responses to your five questions. Be assured that the Agency has special provisions in place to reduce the burden on small volume manufacturers. We have also proposed the addition of a number of new elements designed to reduce the burden on small manufacturers.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Michele McKeever, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-3688.

Sincerely yours,

Marianne Lamont Horinko
Acting Administrator

Enclosure

ENCLOSURE

1. Would you please share with us your general comments on the degree to which the Agency met its obligations under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

EPA fulfilled all of its small business obligations under SBREFA. We completed a SBREFA Panel process for this rulemaking to ensure that we fully evaluated and considered the effects on small entities. In doing so, we considered alternatives that would provide flexibility to small entities. EPA met all of the SBREFA requirements as set out by the Regulatory Flexibility Act (RFA) and provided the report of the process proceedings and outcomes when the rule was proposed. An Initial Regulatory Flexibility Analysis was also developed for the proposal. It should be noted that we have proposed to continue the small volume manufacturer provisions which have been in place for many years, and we have also proposed the addition of a number of new elements designed to reduce the burden on small manufacturers. We understand the difficulty a small motorcycle manufacturer could have in meeting the second phase of standards and we proposed and expect to finalize a provision that will exempt small manufacturers from meeting these standards at this time.

2. In addition, we were informed that the motorcycle industry's independent shops and aftermarket suppliers were not included as part of the small business community potentially affected by this proposed rule. Did the Agency determine that these businesses have no standing in the SBREFA process as directly impacted small businesses and, if so, why?

These regulations would not impose any direct requirements on entities that are not motorcycle manufacturers (like dealers, the aftermarket and end-users). Case law on this matter states: "An agency is under no obligation to conduct a small entity impact analysis of effects on entities which it does not regulate." Motor & Equipment Mfrs. Ass'n v. Nichols, 142 F. 3d 449, 467 (D.C. Cir. 1998). This rule would promulgate requirements only on manufacturers of new motorcycles. Because this rule does not subject these other entities to regulation, EPA was not required to conduct a flexibility analysis as to small aftermarket and other businesses. Independent dealers, shops, and aftermarket parts suppliers and end-users are not directly regulated by the rule, so EPA did not violate any SBREFA guidelines by not including these parties in the formal SBREFA process. Moreover, as noted in the NPRM, we expect no significant effects, even indirect ones, on these entities. However, as part of our analysis of comments on the proposal, we continue to assess the possibility and the potential nature of impacts of this rule on other businesses.

3. Would you please comment on the degree to which the Agency complied with Executive Order 12866 that obligates regulatory agencies to consider less stringent alternatives.

Before this regulation is adopted, EPA will have complied fully with the requirements of Executive Order 12866. We considered a variety of options for new highway motorcycle emission standards, including keeping the current standards, adopting some or all of California's highway motorcycle standards, and adopting standards more stringent than California's standards. In addition, we considered alternatives to the timing of our proposed standards and alternative requirements to ensure the protection of small business motorcycle manufacturers. These alternatives were described and assessed in the proposed rule. We submitted the proposal to the Office of Management and Budget for review, as is required for "significant regulatory actions" under Executive Order 12866. We are conducting further assessment of program options as we complete our analysis of the comments received, and will be submitting the final rule to OMB for review under Executive Order 12866.

4. What segment of the industry will be responsible for certifying compliance with the regulations - the owner, assembler, or the aftermarket engine manufacturer? More specifically, in the case of kit bikes offered for sale by aftermarket companies, who should bear the burden of compliance? And, if the engine maker bears some responsibility to certify his or her engine as EPA compliant, who becomes responsible for certification in the case of independent shops (or individual Americans) that procure a disassembled engine from an engine maker?

Under current EPA rules, which have been in place for over 20 years, the responsibility for certifying motorcycles falls to the motorcycle manufacturer or assembler, not the engine manufacturer. We require emissions testing and certification of a full motorcycle using a chassis-based test. There are no engine-only test procedures or emission standards. Thus, our rules do not directly impact "aftermarket" engine manufacturers. Purchasers and owners of certified motorcycles are not impacted by the these regulatory requirements. The rules apply to all motorcycle manufacturers regardless of the number they produce, and indeed, many small volume manufacturers do certify their vehicles. We have special provisions in place today to reduce the burden on small volume manufacturers, and we proposed others in the NPRM. Under present rules, a kit bike would need to be certified by either the entity selling the kit or the individual assembling it. Since we do not certify engines, those purchasing disassembled engines would have to certify the motorcycle in which the engine is installed. Several commenters to the rule expressed concern about the requirement to certify in these one of a kind circumstances and we are exploring options to provide greater flexibility in these cases.

5. We would be interested in your comments about the Agency's consideration of safety when drafting this proposed rule.

The proposed rule published in the Federal Register on August 14, 2002, contained several paragraphs regarding the issue of safety, particularly as it relates to the use of catalytic converters on motorcycles. The proposal pointed out that tens of thousands of motorcycles in the U.S. fleet are equipped with catalysts, and approximately 15 million motorcycles worldwide use catalysts. Countries that have successfully implemented catalyst-based emission control programs for motorcycles (some of which have many years of experience) do not report any safety issues associated with the use of catalytic converters under real-world conditions. The proposal also cited a number of approaches to shielding the rider from the heat of a catalytic converter. Every motorcycle manufacturer who either testified at the public hearing or provided written comments on the proposed rule has unequivocally stated that they can build motorcycles that will meet the proposed standards with no negative impact on safety or performance relative to motorcycles manufactured today. However, several motorcycle user groups and individual motorcyclists raised the safety issue in their comments. We take the safety concerns expressed by motorcyclists very seriously; thus my staff has been carrying out a very thorough assessment of any safety issues while developing the final rule.

PATRICK J. TIBERI
12TH DISTRICT, OHIO

MEMBER:
COMMITTEE ON EDUCATION AND THE WORKFORCE
COMMITTEE ON FINANCIAL SERVICES

VICE CHAIRMAN:
SUBCOMMITTEE ON SELECT EDUCATION

Congress of the United States
House of Representatives
Washington, DC 20515–3512

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(202) 225–5355

DISTRICT OFFICE:
2700 EAST DUBLIN-GRANVILLE ROAD
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COLUMBUS, OH 43231
(614) 523–2555

January 21, 2003

The Hon. Christine T. Whitman
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Whitman:

It is my understanding that U.S. EPA is undertaking a review of the registration for the herbicide atrazine. As I know you are already aware, atrazine is our country's most widely used herbicide, so the decision on this matter will be of great importance to many Americans.

Although there are many points of view concerning the effects of atrazine on human health and the environment, I know your agency can be counted on to use the best available science in reaching its decision. From what I have been told, EPA has been furnished with hundreds of studies and 50,000 pages of technical material concerning atrazine. This information has already led to the EPA classifying the chemical as "not likely" to be a human carcinogen.

As the EPA completes its work on this matter, it should continue to use sound science in making its final determinations about atrazine. If it does, I know the decisions the agency makes will be ones in which all Americans can have confidence.

Thank you again for your hard work on this and the many other matters now before your agency.

Sincerely,

Pat

Patrick J. Tiberi
Representative to Congress

PJT/bc

cc: Linda Fisher, U.S. EPA

AL-0300078

PATRICK J. TIBERI
12TH DISTRICT, OHIO

MEMBER:
COMMITTEE ON EDUCATION AND THE WORKFORCE
COMMITTEE ON FINANCIAL SERVICES

VICE CHAIRMAN:
SUBCOMMITTEE ON SELECT EDUCATION

Congress of the United States
House of Representatives
Washington, DC 20515–3512

508 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–3512
(202) 225-5355

DISTRICT OFFICE:
2700 EAST DUBLIN-GRANVILLE ROAD
SUITE 525
COLUMBUS, OH 43231
(614) 523-2555

January 21, 2003

The Hon. Christine T. Whitman
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Whitman:

It is my understanding that U.S. EPA is undertaking a review of the registration for the herbicide atrazine. As I know you are already aware, atrazine is our country's most widely used herbicide, so the decision on this matter will be of great importance to many Americans.

Although there are many points of view concerning the effects of atrazine on human health and the environment, I know your agency can be counted on to use the best available science in reaching its decision. From what I have been told, EPA has been furnished with hundreds of studies and 50,000 pages of technical material concerning atrazine. This information has already led to the EPA classifying the chemical as "not likely" to be a human carcinogen.

As the EPA completes its work on this matter, it should continue to use sound science in making its final determinations about atrazine. If it does, I know the decisions the agency makes will be ones in which all Americans can have confidence.

Thank you again for your hard work on this and the many other matters now before your agency.

Sincerely,

Pat

Patrick J. Tiberi
Representative to Congress

PJT/bc

cc: Linda Fisher, U.S. EPA

AL-030007
RO Peas

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 27 2003

THE ADMINISTRATOR

The Honorable Patrick Tiberi
United States House of Representatives
Washington, DC 20510

Dear Congressman Tiberi:

Thank you for your letter of January 16, 2003, regarding the Agency's review of the herbicide atrazine. I appreciate your concern that agricultural communities have access to safe and effective pesticide products, and I assure you that the Agency continually endeavors to use the most up-to-date science to make regulatory decisions.

As you may know, on January 31, 2003, the Agency announced the adoption of an innovative and aggressive program to protect vulnerable community drinking water systems from contamination by atrazine. This program's protective early alert watershed approach will ensure reliable protection for the nation's most vulnerable public drinking water supplies. At the same time, it will allow atrazine to continue to be used in a safe and protective manner. Under this approach, the existing Maximum Contaminant Level (MCL) for atrazine under the Safe Drinking Water Act will remain in place, and safeguards have been designed to detect levels of atrazine that even approach this MCL. If detection indicates that atrazine levels are approaching the existing MCL, stringent monitoring requirements will become immediately effective. If levels of concern are detected, the use of atrazine will be prohibited in the specific watershed. This watershed specific approach provides protections for areas where atrazine levels may be of concern, while minimizing additional regulatory requirements on areas where there is no concern.

Our work on atrazine is based on a thorough review of an extensive body of the best available scientific data, input from the public and stakeholders, and independent scientific peer review. For information on our review process and documents supporting this decision, please visit our Web site at http://www.epa.gov/oppsrrd1/reregistration/atrazine.

Again, thank you for your interest and for providing me this opportunity to respond to your concerns. If you have any further questions or concerns, please contact me, or your staff may contact Betsy Henry in the Office of Congressional and Intergovernmental Relations at (202) 564-7222.

Sincerely yours,

Christine Todd Whitman

AL-0300167

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 27 2003

The Honorable Patrick J. Tiberi
Member, U.S. House of Representatives
2700 East Dublin-Granville Road
Suite 525
Columbus, OH 43231

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Dear Congressman Tiberi:

Thank you for your letter of February 4, 2003, on behalf of your constituent, [redacted] (b) (6), regarding the Agency's review of the herbicide atrazine. I appreciate [redacted] concern that agricultural communities have access to safe and effective pesticide products, and I assure you that the Agency continually endeavors to use the most up-to-date science to make regulatory decisions.

As you may know, on January 31, 2003, the Agency announced the adoption of an innovative and aggressive program to protect vulnerable community drinking water systems from contamination by atrazine. This program's protective early alert watershed approach will ensure reliable protection for the nation's most vulnerable public drinking water supplies. At the same time, it will allow atrazine to continue to be used in a safe and protective manner. Under this approach, the existing Maximum Contaminant Level (MCL) for atrazine under the Safe Drinking Water Act will remain in place, and safeguards have been designed to detect levels of atrazine that even approach this MCL. If detection indicates that atrazine levels are approaching the existing MCL, stringent monitoring requirements will become immediately effective. If levels of concern are detected, the use of atrazine will be prohibited in that particular watershed. This watershed-specific approach provides protections for areas where atrazine levels may be of concern, while minimizing additional regulatory requirements on areas where there is no concern.

Our work on atrazine is based on a thorough review of an extensive body of the best available scientific data, input from the public and stakeholders, and independent scientific peer review. For information on our review process and documents supporting this decision, please visit our Web site at http://www.epa.gov/oppsrrd1/reregistration/atrazine.

Again, thank you for your interest and for providing me this opportunity to respond to your concerns. If you have any further questions or concerns, please contact me, or your staff may contact Betsy Henry in the Office of Congressional and Intergovernmental Relations at (202) 564-7222.

Sincerely,

Stephen L. Johnson
Assistant Administrator

PATRICK J. TIBERI
12TH DISTRICT, OHIO

MEMBER:
COMMITTEE ON EDUCATION AND THE WORKFORCE
COMMITTEE ON FINANCIAL SERVICES

VICE CHAIRMAN
SUBCOMMITTEE ON SELECT EDUCATION

AL-0300167
Response

Congress of the United States
House of Representatives
Washington, DC 20515–3512

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DISTRICT OFFICE:
2700 EAST DUBLIN-GRANVILLE F
SUITE 526
COLUMBUS, OH 43231
(614) 523-2555

February 4, 2003

Environmental Protection Agency
Office of Congressional Liaison
West Tower, Room 835, A-103
Washington, D.C. 20460

Dear Sir or Madam:

The attached communication concerns a request my constituent has forwarded to me which is under the jurisdiction of your office.

Please look into the statements contained within the attached documents and forward me the necessary information for reply. Please address your reply to my district office as listed above.

If you have any questions, please contact Mark Bell at 614-523-2555. Thank you for your time and attention to this matter, and I will look forward to your reply.

Sincerely,

Patrick J. Tiberi
Representative to Congress

PJT/mb

Enclosure

Williams Farms LP
11404 Appleton Rd., Croton, OH 43013

JAN 24 2003

January 21, 2003

(b) (6) [redacted]

(b) (6) [redacted]

It was nice meeting with you last week concerning the EPA's Special Review of the herbicide Atrazine. I hope the information I left with you assisted you somewhat in learning where we are with this Special Review and what we would like to see EPA implement in their final decision.

As a producer, I would like to stress the following points:

Atrazine is the safest and most tested herbicide on the market today. If producers are unable to utilize this tool they will be forced to use other harsher herbicides less friendly to the environment.

EPA has already reclassified Atrazine as "not likely to be a human carcinogen."

Detection of Atrazine in community water systems rarely exceeds EPA's level of concern. As a producer I would hate to see a ruling of "one strike and you're out" used in regulating this herbicide. Various natural occurrences could push the level higher than normal for a very short span of time. These levels do not distinguish between agricultural use and urban run off from lawns.

Further evaluation needs to be done on amphibians. Test studies that EPA currently site were not approved by scientific peers and have not been replicated by outside laboratories.

It is critical that site-specific management be used by "watersheds" not counties. It is much easier to test and manage a watershed area than to allow one outside occurrence from a lonely stream in a remote corner of a county regulate the entire county's application rate.

We urge EPA to use sound science in reaching their ruling and not to allow outside environmental groups to influence this decision.

We urge EPA to reconsider a national rate reduction. There is no test data that shows any advantage for a reduction across the country.

If there are any other concerns we may have with EPA rulings I will be sure to contact you. If we can be of any assistance here in the Croton area please feel free to contact my husband or myself.

Sincerely,

(b) (6) [redacted]